



The Eastern Partnership Roadmap to the Vilnius Summit

An assessment of the roadmap implementation by the Eastern Partnership Civil Society Forum, co-ordinated by the Regional Environmental Centre, Moldova, and PASOS – Policy Association for an Open Society, October 2013

Assessment May 2012 – July 2013

Editor/Co-ordinator: Jeff Lovitt, Executive Director, PASOS

No shortcuts on roadmap from Vilnius to Riga: open and participatory policymaking must take centre-stage

For democratic development and economic integration to be sustained, both EU and partner countries must communicate openly and improve engagement of the public

THE VILNIUS SUMMIT was expected to mark the launch of a new phase of European integration for the majority of the eastern neighbours of the EU, with the initialling or signature of Association Agreements and Deep and Comprehensive Free Trade Area Agreements between the EU and respectively Armenia, Georgia, Moldova, and Ukraine. For Azerbaijan, there would also be the signing of an agreement on visa facilitation, while Belarus would remain the outsider, rejecting dialogue on all but the most technical subjects.

In the months leading up to the summit, however, the partner countries have been subjected to the negative diplomatic offensive from the Russian Federation – ranging from threats and imposition of trade embargos to calls for them to join the Customs Union of Russia, Belarus, and Kazakhstan. In the case of Armenia, after the successful conclusion of negotiations on the Association Agreement and DCFTA agreement, on 3 September 2013 President Serzh Sargsyan overturned expectations when he agreed on a visit to Moscow to join the Customs Union. Not only civil society, but also Armenian officials who had worked to conclude the negotiations, were shell-shocked.

The EU's active diplomacy towards Ukraine has been a welcome, and positive, contrast to the negative diplomacy from Moscow, with its threats of cutting Ukraine off from Russian markets, but in four of the six partner countries

there is far from an open and participatory policymaking process – that will be essential to realisation of the ambitions of the Association Agreements.

Moreover, the level of secrecy around the negotiations of the agreements – under the guise of diplomacy – has weakened the EU's case for European integration. An opportunity has been lost for public debate and for generating wide ownership of the European integration process among the citizens of the partner countries. This would not have stopped the pressure from Moscow, but it would have strengthened the hand of those pushing for closer integration with the EU.

The monitoring of developments in the partner countries during the period since the launch in May 2012 of the roadmap to the Vilnius summit shows that Georgia and Moldova were the only two partner countries whose policymaking process was considered substantially open and receptive to policy initiatives from civil society and expert stakeholders, with limited receptiveness existing in Ukraine, and the beginning of more openness in Armenia.

Despite the permanent participant status accorded to the Civil Society Forum at the intergovernmental panel meetings, civil society has been given a seat in regular trilateral forums - including government, the EU delegations and civil society - only in Georgia, not in the other partner countries, although in



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Moldova civil society now has an observer attending Cabinet meetings. While substantial initiative on the part of the EU to engage with civil society has been welcomed, efforts have been less effective in fostering dialogue between governments and civil society. Greater impetus from the EU side towards this objective is believed to be necessary by civil society actors in Armenia and Ukraine.

However, the need for inclusive and participatory policymaking seems to have been set aside across the board when it comes to Association Agreements between the EU and the partner countries. The talks and drafting process have been marked by "closed doors" to the general public and largely to civil society on the part of both the partner countries and the EU. This has meant there is a lack of understanding of the importance of the Association Agreements in bringing the partners closer to the values and standards promoted by the European Union and the clear benefits to their countries from closer European integration. In Ukraine, there was in some policy areas more outreach to civil society experts from the Ukrainian government than from the side of the EU, so it seems that the EU's position was more than acquiescence with national governments in keeping the draft agreements secret; in fact, opening the drafts to public debate might have met with no objection from partner governments, and would have clearly given the process and the final agreements stronger legitimacy and ownership in the eyes of the public.

An opportunity has been lost to foster greater understanding of the importance and relevance of the content of the Association Agreements, and a perception that European integration is an elite, bureaucratic endeavour; rather than an important project empowering citizens' lives.

The findings above are part of a Civil Society Forum monitoring exercise, some preliminary findings from which are set out here, to be followed by reports from each country, and a final report ahead of the Vilnius summit.

The monitoring so far shows a number of areas of progress, but also some setbacks, and persistent challenges in the six countries.

In **Ukraine**, the law on referenda enables a government to bypass parliament to change or even cancel the constitution, along with the problem of selective justice towards political opposition figures, even though the release of some has been welcome. However, positive

developments include the new Code of Criminal Procedure, and the new Law on Civic Associations, removing administrative barriers to civil society organisations.

In **Armenia**, the independence of the judiciary remains unreformed, but the beginnings of a greater willingness to engage with civil society are evident, including with the Ministry of Justice on human rights strategy.

In **Azerbaijan**, the laws on freedom of assembly jeopardises participation in free elections, and in **Belarus** the government does not engage at all in events initiated by the EU under the Dialogue of Modernisation, while the continued detention of political prisoners and free political association remain a major obstacle to European integration.

The parliamentary elections in **Georgia**, despite polarisation of political forces, marked a step forward, and there is greater openness to civil society engagements since the elections, but a need for greater protection of minorities and anti-discrimination legislation.

In **Moldova**, the recent political crisis was marked by no consultation during changes back and forth to the law on the electoral system. There is an urgent need for plurality in media ownership, and transparency in political finance, and reform of judiciary and prosecutor's office to strengthen fight against corruption.

Corruption and a diverse media spectrum continue to be challenges in all the partner countries.

The Vilnius summit will indeed mark a new phase in relations with most of the partner countries with the EU, but all sides need now to recognise that any sustainable integration must include deep democratic change, and that must include inclusion of independent experts, civil society and the wider public in policy debates.

In the EU, no one doubts the benefits of an inclusive policymaking process, where stakeholders can conduct cost-benefit analyses and raise the perspectives of different sectors in society to improve the quality and sustainability of policy and legislation. The roadmap plotting the trajectory from the Vilnius summit to the 2015 Eastern Partnership summit scheduled to take place in Riga during the Latvia EU Council Presidency should make open government and participatory policymaking apply to every step and every stop along the way.

Association Agreement stopped in its tracks

Half-hearted engagement with wider public by Armenian government and EU alike
now compounded by major setback to European integration

ARMENIA: Assessment May 2012 – July 2013

by Boris Navasardian, Yerevan Press Club President, Arevhat Grigoryan, Yerevan Press Club Expert,
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Does the government engage with civil society on policymaking?	Partially
Is policymaking participatory, e.g. public consultations on draft legislation?	No
Does the government actively engage in dialogue with EU and civil society?	No
Is the process of drafting agreements between Armenia and the EU transparent with public consultations?	No
Does the EU delegation actively engage in dialogue with government and civil society?	No
Does the EU delegation promote dialogue talks with government and civil society?	Partially

Positive developments:

- Completion of negotiations on Association Agreement and Deep and Comprehensive Free Trade Area Agreement
- Readmission agreement signed, and visa regime towards the EU liberalised unilaterally by Armenia
- Modernisation of border crossings with Georgia launched, and working agreement signed with FRONTEX
- National strategy for combating money laundering and terrorism financing approved

Negative developments:

- Announcement to join Customs Union overturning the progress in finalising Association Agreement
- No progress on the much needed reform of the judiciary
- Government representatives do not join civil society and EU for trilateral meetings
- No steps taken to eliminate government control of broadcast media.

BEFORE THE political shock prompted by the agreement on 3 September 2013 of President Serzh Sargsyan to join the Customs Union with Russia, Belarus and Kazakhstan, there had been signs from state representatives that they recognised the need for civil society monitoring and policy engagement.

Nevertheless, government representatives did not take up the invitations to meetings with the EU delegation and civil society representatives. Similarly, the level of EU delegation engagement has not included any significant active efforts to bring government and civil society together, and the content and negotiations around the Association Agreement were clouded in secrecy.

Despite the lack of a consultative policymaking process, the Ministry of Justice initiated consultative meetings with civil society regarding implementation of the human rights strategy, and civil society was consulted on copyright legislation. Likewise, the finalising of the negotiations on the Association Agreement and the Deep and Comprehensive Free Trade Area Agreement was an important achievement.

Clear progress was achieved on border co-operation and readmission agreements, as well as on other areas, such as combating money-laundering, but the lack of public consultation and information on the EU-Armenia agreements has now been further compounded by the decision to join the Customs Union. Both agreements lacked participatory processes in policy-making, bypassing the public in Armenia.

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Government engagement with civil society

Although the government periodically organises, or participates in, meetings, seminars and workshops, the productiveness of this communication is not clear. Recommendations, analytical studies and other initiatives from civil society are not adopted, or acted upon, by the government.

There have been several meetings between the Deputy Minister of Foreign Affairs, Zohrab Mnatsakanyan, as well as other high level officials, with representatives of the Civil Society Forum and its National Platform. Various reports and policy papers have been submitted to the government by different civil society actors (Partnership for Open Society, Eurasia Partnership Foundation, Yerevan Press Club, and others). These documents have been received by government representatives, but there is scarce evidence that they have been used (no references, no citations, no activities in line with the recommendations).

However, positive dynamics have been evident, and the government has begun to question the mechanisms of co-operation. In meetings and seminars, state representatives have expressed a need for civil society monitoring and consultative inputs.

Developments in participatory policymaking

Since the roadmap was launched, there have been some initial openings in co-operation between the government and civil society, but no impact or policy influence has been evident to date. Co-operation remains at the level of information exchange.

Consultations are usually initiated from the side of civil society, and are not comprehensive, regular, or permanent. The Ministry of Justice initiated several consultative meetings with civil society regarding implementation of the human rights strategy, but there have been no examples of “classic” public consultation.

The implementation of the human rights strategy was shared with civil society, and there were discussions between government and civil society regarding the law on copyright.

There are ambitions from the side of civil society to exercise a watchdog function, namely monitoring policymaking and policy implementation procedures, but they are not realisable. There is neither enough clear and publicly available information nor timetables for each stage in the policymaking cycle.

Role of EU as catalyst to foster policy dialogue

The EU delegation to Armenia and the European Commission monitor developments in Armenia, but do not play an active role in terms of engagement in, and fostering of, government-civil society co-operation regarding policy dialogue.

The EU delegation does not influence the relations between the Civil Society Forum national platform and the government. When the platform communicates with the government, it is direct and unmediated.

One meeting about the Association Agreement was initiated by the EU delegation with the participation of the government and civil society. However, it was rather a presentation on the progress of negotiations rather than a forum. As the entire process of negotiations on the Association Agreement were secret, no policy drafts or agreement texts were made available to civil society or the wider public at any point during the negotiations.

No government representative participates in the meetings held between the EU delegation and the Armenian National Platform of the Civil Society Forum, although they are invited, so they cannot be called trilateral meetings. The meetings are not consultative, but discussions between the EU delegation and Armenian civil society.

Participatory policymaking should be priority

Azerbaijan has slipped behind other partner countries with slow progress on Association and Visa Facilitation and Readmission agreements

AZERBAIJAN: Assessment May 2012 – July 2013

*Co-ordinator: **Gubad Ibadoglu**, Public Initiatives Center*

<i>Does the government engage with civil society on policymaking?</i>	No
<i>Is policymaking participatory, e.g. public consultations on draft legislation?</i>	No
<i>Does the government actively engage in dialogue with EU and civil society?</i>	No
<i>Is the process of drafting agreements between Azerbaijan and the EU transparent with public consultations?</i>	No
<i>Does the EU delegation actively engage in dialogue with government and civil society?</i>	Partially
<i>Does the EU delegation promote dialogue talks with government and civil society?</i>	Yes

Positive developments:

- “Azerbaijan 2020: Look into the Future” development plans finalised
- Working agreement signed between State Border Service and Frontex
- Progress on Visa Facilitation and Readmission agreements – to be signed at Vilnius summit
- Agreement on TAP (Trans Adriatic Pipeline) as partner on Southern Gas Corridor

Negative developments:

- Amendments to legislation on freedom of assembly further limit citizens’ rights during elections, while political prisoners remain behind bars
- Neither participatory policymaking around draft legislation nor government participation in trilateral talks with the EU and civil society.

IN THE RUN-UP to the Presidential elections of 9 October 2013, the basis for a free and fair election was not in place: the freedom of assembly was restricted, civil society’s activities systematically curtailed, and journalists harassed and intimidated.

On the policy level, public consultations do not feature in the policymaking process in Azerbaijan. However, in some cases, government agencies invite pro-government civil society organisations to closed-door consultations. In 2013, the EU delegation made several attempts to bring the Civil Society Forum national platform and the government together for discussions on thematic issues, but without success.

The government was expected to participate in the discussions of the Venice Commission’s Proposals on NGO law of Azerbaijan, but did not attend. An exception was the development concept on “Azerbaijan 2020: the Vision of the Future”, where consultations with civil society did take place, although not on the text of the

concept itself. The concept was approved in December 2012, paving the way for improvements in transport and infrastructure, including balanced development of the regions.

On 17 April 2013, a working agreement was signed on the establishment of practical co-operation between the State Border Service and Frontex, but on a range of issues, progress in Azerbaijan moved at a slower pace than in other partner countries (with the exception of Belarus).

Negotiations on a visa facilitation regime and readmission agreement between Azerbaijan and the European Union have developed slowly, in part related to financial-technical aspects of the readmission issue, but the visa facilitation and readmission agreement is now expected to be signed at the Vilnius summit. Similarly, it was not possible to conclude an Association Agreement – failing to reach agreement on political and legal reforms, human rights and freedoms, market economy, and free trade.

AZERBAIJAN: Assessment May 2012 – July 2013**Government engagement with civil society**

In general, Azerbaijan civil society is a weak implementing partner for the government. Dialogue between the government and civil society is not held on a regular basis. Due to the lack of an open tendering process, when services are commissioned from civil society by government agencies, they are generally ordered from groups that are close to the government.

Developments in participatory policymaking

The practice of organising public consultations does not exist in the policymaking process in Azerbaijan. However, in some cases, government agencies invite pro-government civil society organisations to closed-door consultations.

The "Azerbaijan 2020: look into the future" concept of development was open to discussions among experts and civil society, although draft versions of the concept were not made available for open discussions. As a rule, draft laws are not made publicly available, and are published only in their final form.

Reviews were prepared by the National Budget Group on draft and implementation of the State Budget. These included recommendations for improvement of public finance management, but they were not taken into consideration by the government.

Role of EU as catalyst to foster policy dialogue

On the occasions of drafting agreements between the EU and Azerbaijan, civil society and independent experts have not been invited to participate or contribute.

In 2013, the EU delegation made several attempts to bring the Civil Society Forum national platform and the government together for discussions on thematic issues, but without success.

Only bilateral discussions between EU, international organisations, and civil society have been possible. The government was

expected to participate in the discussions of the Venice Commission's Proposals on NGO law of Azerbaijan, but did not attend.

Otherwise, the European Commission and EU delegation in Azerbaijan interacts with civil society largely within the framework of several EU-funded projects.

There was a meeting between human rights organisations that are members of the national platform and EU Ambassador, Roland Kobia, on 22 April 2013, including an exchange of views on the ENP Progress report on Azerbaijan. On 2 May 2013, a meeting was held between members of the national platform and Štefan Füle, European Commissioner for Enlargement and Neighbourhood Policy.

A Public Forum on the Situation of Political Freedoms in Azerbaijan was held in Baku on 11 October 2012 by the Election Monitoring and Democracy Studies Center (EMDS), and did include government participation.

In the first part of the forum, participants discussed the "EU's Eastern Partnership Policy priorities on provision of political freedoms". During the second part of the forum, participants discussed the "expected impacts of the 16 October 2013 presidential elections on relations between Azerbaijan and Europe and opportunities for improving election practice".

Representatives from the government of Azerbaijan, civil society, the international community, embassies and mass-media attended the forum. The forum took place with financial support from the United States Agency for International Development (USAID) and the US National Democratic Institute (NDI).

Dialogue limited to technical and diplomatic level

BELARUS: Assessment May 2012 – July 2013

Co-ordinator: **Andrei Yahorau**, Centre for European Transformation

- Does the government engage with civil society on policymaking?**
- Is policymaking participatory, e.g. public consultations on draft legislation?**
- Does the government actively engage in dialogue with EU and civil society?**
- Is the process of drafting agreements between Belarus and the EU transparent with public consultations?**
- Does the EU delegation actively engage in dialogue with government and civil society?**
- Does the EU delegation promote dialogue talks with government and civil society?**

No
No
No
No
Partially
Partially

Government engagement with civil society

Except for a few isolated examples, requests from the government for the opinions of civil society on policies are scarce.

The exceptions have included:

- an appeal in September 2012 to one of the human rights defence organisations from the governmental Center of Legislative Activity, and dialogue via mails between the National Center of Legislation and Legal Research at the Administration of the President and some human rights defence organisations on the introduction of a Commissioner on Human Rights (ombudsman) in Belarus
- proposals for amendments to the Law on Mass Media by the Belarusian Association of Journalists (BAJ) to parliament in January 2013
- participation of representatives of authorities together with civil society representatives in seminars within EU initiatives (e.g. May 2013 seminar on Bologna process)
- individual meetings of some civil society leaders with representatives of central and local authorities.

As a rule, attempts by civil society organisations to participate in either the stage of formation of policies or in control of policy implementation have been rebuffed by the authorities, for instance:

- Stakeholders were denied access to drafts of amendments to the Electoral Code.
- The Tell the Truth! campaign could not access the budgets of local authorities.
- Comments prepared by the Center of Legal Transformation to the draft of the Law on Public Associations were not even considered.
- The proposals of business associations in response to the draft Law on Introduction of Ownership Supervision in joint stock companies was not considered by lawmakers, and the law was adopted at the first reading without taking their comments into consideration (although parliamentarians stated their willingness to continue consultations before the second reading).

One of the few examples of fruitful co-operation between authorities and civil society organisations was the activity of the Community for Saving Historical and Cultural Memorials in the sphere of protection of architectural legacy.

Developments in participatory policymaking

On 31 July 2012, a bill on the introduction of alterations and addenda to certain laws “on the issues of functioning of political parties and other public associations” was submitted to the House of Representatives of the National Assembly without any prior consultation with non-governmental organisations.

BELARUS: Assessment May 2012 – July 2013

At the beginning of 2013, human rights defenders (Lawtrend experts) sent proposals to the Commission on Human Rights of the House of Representatives on the draft law amending the Law "On Public Associations" (the draft law "On the issues of functioning of political parties and other public associations"). In March, 2013 they received a response that the parliament working group decided that the recommendations were "inadvisable".¹

Public hearings or the participation of civil society organisations in consultations on legislative changes, when held, involve predominantly civil society organisations loyal to the government. Independent civil society organisations are usually not invited or their opinion is ignored.

Civil councils do exist at some ministries and governmental institutions (Ministry of Culture, Ministry of Environment, Ministry of Internal Affairs), but their influence on decision-making is very low.

Initiatives from the side of civil society to hold wider, public consultations are rebuffed by the government, or do not go beyond one-way communication (the authorities receive written submissions, but the level of dialogue or consideration of such submissions remains low).

Moreover, at the stage of preparation before they are proposed to parliament - when the wider public and civil society would be interested in providing their input – access is restricted in the case of many laws. Most draft laws are subsequently published online in the form proposed to parliament.

In response to the communication with some human rights groups from the governmental Center of Legislative Activity on the introduction of the Commissioner for Human Rights (an ombudsman), on 16 October 2013 the Center for Legal Transformation (Lawtrend) organised a working meeting of representatives of human rights organisations (most of whom had not been invited to discuss the issue (among them Lawtrend, "Viasna", "Legal Assistance to Population", IEI "Platform", Office for the Rights of People with Disabilities, Committee "Solidarity", Belarusian Human Rights House and human rights defender Raisa Mikhailouskaya).

In an open statement issued after the meeting, the participants indicated that they considered it necessary to create the institution of an ombudsman in line with the recommendations of the Universal Periodic Review of Human Rights (UPR), adopted by Belarus in 2010. The statement set out preconditions for the launch of a dialogue between human rights defenders and government agencies, namely:

- release of all the political prisoners, including human rights activist Ales Bialiatski;
- termination of all kinds of pressure on human rights activists, for example, the judgment on the elimination of the IEI "Platform" and the failure of the recommendations of the UN Committee on Human Rights on the restoration of the registered status of the Human Rights Center "Viasna".

Role of EU as catalyst to foster policy dialogue

In March 2012, the European Dialogue on Modernisation was launched. In spite of several attempts by the EU delegation to involve government officials in the Dialogue and its events, the Belarusian government has declined to take part. Moreover, central authorities issued a special letter to ministries and their local offices with an instruction forbidding civil servants from any involvement in the Dialogue on Modernisation (DoM).

In spring 2013, the Belarusian Ministry of Foreign Affairs sent a letter to EU member states with a proposal to reorganise the Dialogue's structure along the lines of the EU Partnership for Modernisation with Russia. This proposal also recommended the exclusion of civil society and political opposition from the Dialogue.²

There have been examples of non-public contacts of non-governmental experts with governmental experts within the Dialogue (e.g. a video conference on economical issues organised by the EU). Moreover, the EU has performed a mediating role, bringing together participants from both government and civil society (e.g. conference "Belarus at the crossroads of integrations, 14 November 2012; informational and educational seminar on the Bologna process, May, 2013).

¹ <http://www.lawtrend.org/ru/content/about/news/uchitivat-mnenie-zainteresovannih-nko-necesnoobrazno/>

² Source: communication with coordinators of the thematic expert groups of the DoM; communication with EU Delegation and EEAS officials during DoM coordinators' visit in Brussels (February 2013)

Civil society gains greater say in policymaking

Georgia's efforts to secure European Perspective fail to secure EU support, but Association Agreement can signal a new era of close integration

GEORGIA: Assessment May 2012 – July 2013

Co-ordinator: Tamara Pataraja. Caucasus Institute for Peace, Democracy and Development

Does the government engage with civil society on policymaking?	Yes
Is policymaking participatory, e.g. public consultations on draft legislation?	Partially
Does the government actively engage in dialogue with EU and civil society?	Partially
Is the process of drafting agreements between Georgia and the EU transparent with public consultations?	No
Does the EU delegation actively engage in dialogue with government and civil society?	Yes
Does the EU delegation promote dialogue talks with government and civil society?	Yes

Positive developments:

- Completion of negotiations on Association Agreement between Georgia and EU
- OSCE recognised parliamentary elections as “an important step in consolidating the conduct of democratic elections in line with OSCE and Council of Europe commitments”
- Legislative amendments passed to increase judicial independence
- Visa dialogue launched, and visa liberalisation action plan handed over on 25 February 2013
- Government has taken into account civil society positions in amendments to the law, such as strategic defence review, law on broadcasting, and Labour Code, and has broadened human rights dialogue

Negative developments:

- Lack of consultation on content of draft agreements between the government and the EU
- Free assembly continues to be a concern, for instance when protesters assaulted opposition lawmakers on the day of the President’s annual address to parliament, and when insufficient efforts were made by police to ensure the right to peaceful assembly of the lesbian and gay community
- The elaboration of a law on energy efficiency and renewable energy has again been postponed.

IN THE RUN-UP to the parliamentary elections in October 2012, the European Union delegation in Georgia worked to ensure trilateral dialogue between civil society organisations, political institutions (political parties, government, and parliament), and the EU delegation on election and post-election issues. The new government has broadened participation in the human rights dialogue in Georgia, and in a range of areas of legislation has increased engagement with civil society and business associations when drafting amendments to the law. The pre-election release of video footage of torture and ill-treatment by guards of prison inmates has led to prosecutions, but the elimination of the impunity of law enforcement bodies (police as

well as prisons) is one of the areas where the new authorities still need to take decisive measures.

Despite continued polarisation of political forces, a cross-party group in parliament has worked together to formulate proposals to liberalise the party political finance system. The conclusion of negotiations on the Association Agreement and the Deep and Comprehensive Free Trade Area agreement – despite the disappointment for the Georgian side of the exclusion of a provision on a European Perspective for Georgia – will usher in a new chapter of closer integration between Georgia and the EU.

GEORGIA: Assessment May 2012 – July 2013**Government engagement with civil society**

Since the emergence of the new government after the parliamentary elections of October 2012, there has been a more open approach from the side of the government, but the willingness to engage civil society organisations to monitor the public sector or institutionalise open communications between civil society organisations and government is still not there. Some ministries are more open to civil society, such as the Ministry of Defence, but the means and forms of communications vary from ministry to ministry.

On 30 August 2011, the previous government joined the Open Government Partnership, making a major commitment to transparency in governance. In turn, Georgian civil society actors intensified their activities to make the government more accountable, and to increase the level of engagement of the wider public in decision-making.

With the support of the European Union, the following platforms have been created that bring together civil society and different government agencies:

- Inter-agency Council on Criminal Justice Reform
- Human Rights dialogue – which engages civil society actors working on human rights issues and promotes policy dialogue
- A Civil Advisory unit created by the State Ministry for European and Euro-Atlantic integration to help civil society to engage in dialogue with the government on EU integration issues.

All these were established before the launch of the roadmap, but the initiatives were further developed after October 2012. The Human Rights dialogue was intensified, and became broader and more participatory. The Civil Advisory unit had been a mere formality under the previous government.

Examples of innovative civil society monitoring tools include the creation by the Institute for Development of Freedom of Information (IDFI) of an online database that enables online monitoring of reports, plans, spending, and developments at various public authorities. IDFI is developing an information portal, which will display public information officially requested from public authorities for the following purposes:

- to increase the level of transparency and accountability of public authorities;
- to promote effectiveness and transparency of public expenditure;
- to promote the development of freedom of information via the establishment of e-democracy standards;
- to improve public control over public authorities via the involvement of the population, non-governmental sector and media;
- to increase the level of public awareness and civil engagement in the decision-making process of the public authorities.

Transparency International – Georgia also uses e-technologies in order to reach out to the wider public in proactive and reactive advocacy work to ensure the transparency and direct accountability of state institutions.

Developments in participatory policymaking

The government's approach to participatory policymaking has been mixed. Since October 2012, there has been increased public consultation on a range of policy reforms, but there have been cases where the government rushed into making decisions and did not engage civil society and the wider public in the decision-making process.

Sometimes, the government has been very open to discuss civil society initiatives, such as:

- Government-civil society dialogue on illegal phone-tapping and surveillance of citizens - the government does not share civil society's position on a number of the issues, but the dialogue proved to be helpful (since April 2013)
- New amendments were made to the Labour Code based on consultation with civil society actors (March-June 2013)
- Amendments to the law on common courts took into account recommendations from civil society organisations and experts (December 2012 - May 2013)

GEORGIA: Assessment May 2012 – July 2013

- The Strategic Defence Review 2013 was drafted and adopted after consultations made with civil society (2011-2012)
- Successful campaign “This Affects You Too” against pre-election legislative amendments that would have limited civil and political activities, property rights, and freedom of expression, before the October 2012 parliamentary election
- Campaign “Must Carry and Must Offer”, based on which amendments were made to the law on broadcasting (before the October 2012 parliamentary elections).

These activities were all conducted after the roadmap was launched, and the success of the last two campaigns contributed very much to the improvement of the election environment before October 2012.

On the other hand, there have been instances where the government did not engage civil society into the policymaking process. In the case of the construction of hydropower stations in Georgia, environmentalists and the local population are free to express their opinions, but the current government shows the political will to proceed with the construction projects initiated by the previous government.

Civil society engagement is very intense in the areas of defence and security, EU integration, justice, healthcare, agriculture, energy, and environment, while in some cases the government tries to go beyond civil society organisations and experts, and to consult the broader public, for instance local government reforms include active local consultation, and the Ministry of Regional Development is developing a village support programme in 2013.

Constitutional changes and judiciary reforms have also been widely discussed by government, parliament and civil society organisations, including outreach in different cities, not only in Tbilisi. In the case of environmental policy and forestry reform, there is ongoing consultation with experts and specific civil society organisations.

In 2011-2012, agricultural strategy was prepared under the EU sectoral support programme with the involvement of civil society organisations. On the other hand, reforms in the energy, environmental and natural resources sectors were undertaken without any consultations.

Role of EU as catalyst to foster policy dialogue

In the weeks before and after the 2012 parliamentary elections, the EU delegation in Georgia played a key role in ensuring trilateral dialogue between civil society organisations, Georgian political institutions (political parties, government, and parliament), and the EU delegation on election and post-election issues.

The EU has also supported the organisation of conferences with the aim of bringing civil society together with the EU and the government (two conferences were held on elections, and an annual conference, “Georgian European Way”, has been held since 2008, organised by the State Ministry of European and Euro-Atlantic Integration).

In the case of the draft agreements between Georgia and the EU, for instance the Association Agreement and the Deep and Comprehensive Free Trade Area Agreement, there were never any formal or informal consultations with civil society and the public. According to the government, the EU was strictly against consultation on the agreements. Nevertheless, several discussions were held between the government, civil society organisations and EU representatives on monitoring of the Visa Liberalisation Acton Plan, in particular in April-May 2013.

The government has reported openly about the outcomes of each stage of negotiations and informed civil society organisations about the results, albeit without going into the specifics of negotiations, and at a point where there is no scope left for civil society to provide opinion on specific/or questionable issues.

Impact of Comprehensive Institution Building Programme (CIB)

The CIB facility was granted to Georgia only after elaboration of the Institutional Reform Plan by the Georgian government, which was accepted by the European Commission. The Institutional Reform Plan envisaged the improvement of a set of Georgian institutions primarily responsible for the implementation of the future Association Agreement, namely the Office of the State Minister for European and Euro-Atlantic Integration (OSMEI), the Office of the Prime Minister, the Ministry of Foreign Affairs, Civil Registry, Food Safety Agency (FSA), Georgian Accreditation Centre (GAC), National Agency for Standards and Metrology

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(GEOSTM), Ombudsman (Public Defender) Office, Parliament, and Chamber of Control.

The most tangible results have been reached to date in the case of GEOSTM through refurbishment and preparation for the future installation of laboratories. Intensive training and assistance with the preparation of legal documents and legal measures regulating different aspects of food safety have been provided for the FSA. The Civil Registry received financial assistance to establish so-called village houses (“one-stop shops”) in four regions of Georgia.

The support to the Ombudsman's office has also materialised in trainings and assistance in the monitoring of civil rights. The Civil Registry also received assistance in acquiring an advanced translation facility, “TRADUS”, for translation of European standards, technical regulations and laws to support further harmonisation of Georgia's legal environment with the EU's *acquis communautaire*. In 2013 and 2014, the projects under CIB should also cover assistance of additional “core institutions”.

Judicial reform and corruption must be top priority

Political will needed to tackle entrenched interests and to open up policymaking

MOLDOVA: Assessment May 2012 – July 2013

Co-ordinator: Leonid Litra

Does the government engage with civil society on policymaking?	Yes	
Is policymaking participatory, e.g. public consultations on draft legislation?	Partially	
Does the government actively engage in dialogue with EU and civil society?	Partially	
Is the process of drafting agreements between Moldova and the EU transparent with public consultations?	No	
Does the EU delegation actively engage in dialogue with government and civil society?	Partially	
Does the EU delegation promote dialogue talks with government and civil society?	Yes	

Positive developments:

- Completion of Association Agreement and Deep and Comprehensive Free Trade Area Agreement
- Significant progress on anti-discrimination legislation, and moderate progress on freedom of speech
- Amended Visa Facilitation Agreement entered into force, and Moldova became the first partner country to embark upon the second phase of the Visa Liberalisation Action Plan
- The new prosecutor-general, regarded as a professional capable of implementing long-awaited reform of the Prosecutor’s Office, was appointed from civil society
- National Integrity Commission and Council on Prevention of Discrimination became operational
- The second phase of the Comprehensive Institution Building programme will focus on judicial reform

Negative developments:

- Changes to the electoral legislation and independence of some institutions on 19 April 2013 and 3 May 2013 were adopted overnight without any consultation with civil society or with specialist international bodies.
- Many recommendations made by civil society on the draft law on public financing of political parties were disregarded by the government
- Adoption of law on transparency of media ownership and law on local public finance postponed
- Justice and law enforcement institutions continue to be subject to political and private influence
- “Raider attacks” have posed serious problems in the justice sector and public service.

THE SUCCESSFUL conclusion of negotiations on the Association Agreement and DCFTA was dampened by the political crisis and the overnight changes to electoral legislation in April and May 2013. Moreover, judicial reform and corruption continue to stall democratic development and the rule of law. Justice and law enforcement institutions remain subject to political and private influence, while the so-called “raider attacks” (fraudulent takeover bids through misappropriation of stock in financial institutions) have undermined integrity in public service.

A strong political push is required to tackle corruption, including the adoption of legislative proposals developed by the Ministry of Justice to tighten sanctions for corruption, and to introduce mandatory integrity testing for law enforcement and the judiciary. Laws on mass-

media ownership and transparency in party political finance are also essential.

According to civil society organisations, in the period April-December 2012 some 33% of the issues on the agenda of government meetings didn’t follow the procedures of decisional transparency, and often little time was provided for feedback from civil society and the wider public. Few now dispute that reforms are needed to increase participatory policymaking and civil society engagement, especially well in advance of consideration of a draft law by parliament. EU-Moldova relations also require a communications strategy to raise public awareness about commitments under the Association Agreement and the DCFTA. Regular trilateral dialogue roundtables are needed between the government, the EU delegation and civil society organisations.

Government engagement with civil society

The government does engage with civil society as a partner in policymaking, but does not always publish draft legislation in time for expert consultation and scrutiny, and has rushed through important, politically sensitive measures without any consultation.

The National Participatory Council (NPC) gathers representatives of civil society organisations from different sectors, and serves as a platform for strengthening participation in the decision-making process.

The head of the NPC attends Cabinet meetings, and can voice the position of civil society there, a ground-breaking development in the partner countries. Civil society representatives are frequently asked by the state authorities (Ministry of Justice, National Anti-corruption Centre, National Integrity Commission) to provide expertise on draft laws, and a few ministries have asked civil society organisations to delegate their representatives to the ministerial consultative councils.

Following monitoring reports by civil society organisations, modifications were made by the government, parliament and the Ministry of Justice to draft laws on conflicts of Interests, the e-governance action plan, and an anti-discrimination law (the latter was adopted as a result of numerous roundtables, seminars, and consultations).

At the same time, politically sensitive decisions have been adopted at short notice without consultations with civil society actors or any participatory process, such as changes to the electoral legislation on 19 April 2013 (later repealed in May 2013). Similarly, many recommendations made by civil society on the draft law on public financing of political parties were disregarded by the government. The draft adopted by the government awaits its passage in Parliament.

The amendment to the Law on Government referring to the status and the competences of the Acting Prime Minister also disregarded the recommendations of civil society. Later, this amendment was declared unconstitutional by the Constitutional Court. Likewise, the measure by political parties to raise to 6% the threshold for parliamentary elections disregarded the recommendations of civil society.

Developments in participatory policymaking

There have been many examples of fruitful collaboration between the government and civil society in the policymaking process, starting with the drafting of legislation at the initial stages in ministries or other agencies, continuing at the level of discussion in the cabinet, and in the parliament. However, consultation takes place on a case-by-case basis, and one problem relates to the very small number of civil society organisations that can offer quality expertise, or any expertise at all, in certain sectors.

An online forum (established by parliament) is available to which civil society representatives can send comments, some ministries carry out consultations and public debates, and the government organises public consultations when drafting national or sector strategies. The policymaking process is participatory in most cases, but many sensitive political decisions are still taken without public consultations.

Draft laws are published on the official web page of the Ministry of Justice at the beginning of the enactment procedure and are updated if some changes appear, so that civil society representatives can provide feedback at any phase. According to civil society organisations, however, in the period April-December 2012 some 33% of the issues on the agenda of government meetings didn't follow the procedures of decisional transparency, and often little time was provided for feedback from civil society and the wider public.

In addition, the government's draft decision to cease live broadcasts of government meetings marks a change for the worse.

Role of EU as catalyst to foster policy dialogue

The EU Delegation in Chisinau always encourages the members of the Eastern Partnership Civil Society Forum National Platform to engage in monitoring of the activities of the government and to come forward with policy proposals, but the whole negotiation process of the Association Agreement and Deep and Comprehensive Free Trade Area Agreement was not transparent,

and the draft agreements have not been published.

When bilateral agreements between the EU and Moldova are known to specific think-thanks and civil society organisations from a specific sphere, there is still no access or debate reaching the wider public.

Trilateral forums for regular consultation have not been established but, when possible, the National Platform and its separate members have come forward with concrete policy proposals for the government. In spring 2013, at a meeting with the representative of the EU Delegation in Chisinau, the members of the National Platform expressed their concern at the lack of transparency on the negotiations between the EU and the government. The negotiations on DCFTA were of particular interest for the representatives of the Small Business Association. According to civil society representatives, even though some trilateral meetings are held, they do not take place on a permanent basis.

The state authorities, on the other hand, point to the twice-yearly dialogue between the EU, the government, and the representatives of civil society, regarding the protection of human rights and the improvement of Moldovan legislation in this respect.

Impact of Comprehensive Institution Building Programme (CIB)

The areas covered by the CIB were determined jointly by the EU and Moldova, but it is clear that the priorities were dictated by the outline of the Association Agreement. Most of the institutions covered by the government's annual programme are also covered in the CIB programme, which shows a high degree of ownership of Moldova.

Moldova focused exactly on the institutions that are going to play a significant role in the implementation of the Association Agreement and Deep and Comprehensive Free Trade Area Agreement (DCFTA). Since the CIB was launched, many twinning and Technical Assistance and Information Exchange (TAIEX) programmes have been implemented, and most of the institutions involved in the negotiations of the Association Agreement and DCFTA participated in trainings.

The first phase of the CIB (preparation for negotiations and capacity building) has been completed. The second phase started in June 2013 and will focus on judicial reform and capacity building for implementation of EU-Moldova agreements.

The objective of the CIB is so far partially met since it was not able to address in a systematic manner the reform of the judiciary, including the prosecutor's office. These reforms are only starting now.

*An interim assessment of the roadmap implementation
by the Eastern Partnership Civil Society Forum*

Assessment May 2012 – July 2013

A few steps forward, a few steps back

Association Agreement can launch new era in European integration, but checks and balances must be strengthened in democratic governance

UKRAINE: Assessment May 2012 – July 2013

*by **Oleksandr Sushko**, Institute for Euro-Atlantic Cooperation,
Yaryna Borenko, European Dialogue, and **Andriy Kohut**, Centre SIM*

<i>Does the government engage with civil society on policymaking?</i>	Partially
<i>Is policymaking participatory, e.g. public consultations on draft legislation?</i>	Partially
<i>Does the government actively engage in dialogue with EU and civil society?</i>	No
<i>Is the process of drafting agreements between Ukraine and the EU transparent with public consultations?</i>	No
<i>Does the EU delegation actively engage in dialogue with government and civil society?</i>	Partially
<i>Does the EU delegation promote dialogue talks with government and civil society?</i>	Partially

Positive developments:

- Conclusion of negotiations on Association Agreement between Ukraine and the EU
- New Code of Criminal Procedure came into force after co-operation with Council of Europe experts
- New Law on Civic Associations secures a more friendly legal environment for civil society organisations
- Some anti-corruption measures adopted into law
- Improvement in World Bank Doing Business ratings

Negative developments:

- Parliamentary elections of 2012 lacked “level playing field”
- Referendum law enables parliament to be bypassed over constitutional changes
- Introduction of special import duty on cars; proposal to renegotiate hundreds of tariff lines with WTO

THE GOVERNMENT'S engagement with civil society has deteriorated since the roadmap was launched, while the Association Agreement was negotiated between the government and the European Commission behind closed doors without open consultation with Ukrainian society.

The state of democracy has also slipped backwards, with increasing concentration in the powers of the President, and the new referendum law enables the constitution to be amended or even annulled without any vote in parliament. Corruption remains widespread, and politically motivated judicial decisions remain a widely recognised problem, not least with the continuing imprisonment of former premier Yulia Tymoshenko.

The conclusion of the Association Agreement and Deep and Comprehensive Free Trade Area Agreement (DCFTA) between Ukraine and the EU ahead of other Eastern Partner countries was not matched by achieving the “determined action and tangible progress” sought by the EU Council in its Conclusions of December 2012.

Nevertheless, cross-party agreement has been reached in Ukraine on making European integration a key priority on the national policy agenda, and NGO experts in Ukraine conclude that the EU would have the best leverage if it signed the Agreement at the Vilnius summit on 30 November 2013 while preserving a certain controlling mechanism – the Agreement is the start, not the end of close integration between the EU and Ukraine.

UKRAINE: Assessment May 2012 – July 2013**Government engagement with civil society**

The level of engagement between government and civil society has deteriorated since the end in December 2012 of cabinet-level representation of a figure with responsibility for co-ordination of European integration. Before September 2012, Valery Khoroshkovsky, the deputy prime minister responsible for European integration, arranged a number of informal meetings with the leaders of the Civic Expert Council and the national platform of the Eastern Partnership Civil Society Forum (EaP CSF) with the aim of discussing future co-operation. In November 2012, he took part in the CSF National Platform's Annual Conference promising further engagement with civil society. However, in December 2012 Khoroshkovsky was dismissed, and subsequently there have been no attempts by cross-sectoral governmental bodies to establish structured dialogue with civil society.

"Inter-sectoral" structures and task-focused initiatives are, however, being led by civil society aiming to provide public consultation on a range of policy issues, for instance anti-discrimination legislation, and legislation on combating corruption.

Developments in participatory policymaking

The practical engagement of NGOs in co-operation with the government is usually of a formal or token nature, with a lack of real impact.

Prior to the launch of the roadmap in May 2012, civil society actors were involved in the Constitutional Assembly held by President Viktor Yanukovich on 25 January 2012, in the formation of the Strategy of Government Policy for Civil Society Development, adopted on 24 March 2012, and, to a lesser extent, in the National Anti-Corruption Committee, established on 16 March 2012.

However, some influential actors dropped out of co-operation in the Constitutional Assembly (e.g. New Citizen Partnership) and in the National Anti-Corruption Committee (e.g. Transparency International-Ukraine), claiming lack of impact and growing risk of manipulation. The voice of civil society actors was ignored on many occasions when politically sensitive

issues were concerned. In most cases, the government continued to engage in dialogue with civil society in the recently established formats. Hundreds of civic councils continued to work at different levels of government in accordance with a new regulation (No. 996) adopted by the cabinet in late 2010, but the effectiveness of the councils has been negligible, and some play a largely decorative role.

Under existing procedures, any draft law should be accompanied by a notice that it either needs "public debates" or it does not. There is an official practice of flagging "public debates" when certain drafts are published on ministries' websites before being officially submitted to parliament (e.g. the recent case of the draft law introducing changes to election legislation, submitted by the Ministry of Justice, July 2013).

However there are many cases (especially when serious political and/or economic interests are concerned) when the notice states that "no public debates are needed" – in which case the draft goes directly to parliament without publication at the ministry/government website.

Role of EU as catalyst to foster policy dialogue

Concerning the majority of policy debates, the EU delegation communicates separately with the government and with civil society actors. For instance, the EU delegation arranges separate meetings with civil society leaders during EU officials' visits to Kyiv. The most notable case was in December 2011, when European Commission President José Manuel Barroso and President of the European Council Herman Van Rompuy attended and spoke to the national platform conference in Kyiv during the EU-Ukraine annual Summit.

On the other hand, when it came to working to ensure the signature of the EU-Ukraine Association Agreement, the EU Delegation involved both governmental and non-governmental actors, for instance in June 2013, when the reform of election legislation in Ukraine was discussed on the premises of the EU Delegation.

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There are no trilateral structures bringing together the EU delegation, the government and civil society for regular consultations. The CSF national platform has itself initiated trilateral consultations on selected policy issues, however they were not realised because there was a lack of will from the governmental side.

Ukrainian civil society is active in monitoring bilateral agreements between the government and the European Union, but the main source of information is the EU level. There is a lack of transparency and clarification of the bilateral process, as well as differing political interpretations of the documents.

Generally, the negotiation process of the Association Agreement was closed on both sides – the policy of both the Ukrainian government and the European Commission, resting on the premise that the texts should be made public only after the completion of negotiations. As a result, access to drafts was very limited and possible only through informal channels.

An exception was made on the part of the Ministry of Financial Affairs and the Ministry of Economy, which tried to involve a limited circle of stakeholders, primarily the business sector, to prepare national positions for negotiations. To this end, the Ukrainian negotiators disseminated questionnaires to gather the opinions and concerns of business stakeholders during talks on the Deep and Comprehensive Free Trade Area Agreement (DCFTA).

Impact of Comprehensive Institution Building Programme (CIB)

All sectors of the public administration in Ukraine suffer from the vague separation of powers between responsible governmental agencies, the lack of a general strategic framework, and poor institutional capacity, so the Comprehensive Institution Building (CIB) programme in Ukraine can play a key role in reform of the public administration, and is focused on the vertical level, e.g. migration policy, food safety.

The overall allocation of the CIB programme for Ukraine is € 43 million. In general, evaluation of the CIB efficiency is rather positive; however some shortcomings should be noted. In particular, with regards Twinning TAIEX and SIGMA instruments (parts of CIB) the Commission's report says: "In the majority of cases, coherence and complementarity

between Twinning, TAIEX and SIGMA, the three institutional capacity building tools, are adequately guaranteed, although Twinning and TAIEX may sometimes have been mixed up by beneficiaries, mostly at the preparation stage of the twinning cycle. Coherence and complementarity are weaker in relation to projects funded by other donors."

Administrative reorganisations in Ukraine in 2011-2012 have affected CIB implementation. In particular, the reorganisation of the central administration had negative effects on twinning activities: several twinning projects have been postponed and several calls for proposals suspended. Moreover, the absorption of one twinning direct beneficiary by another agency caused massive layoffs and also the loss of a great deal of training results that had been achieved under the ongoing twinning project before the merger took place. The EU delegation pointed out that, after the administration reform was launched, civil servants became far less proactive, which then became a very important issue.³

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http://ec.europa.eu/europeaid/where/neighbourhood/overview/documents/20121002-final-report_en.pdf

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