

**LEGAL AND INSTITUTIONAL MECHANISMS FOR NGO-  
GOVERNMENT COOPERATION IN  
CROATIA, ESTONIA AND HUNGARY \***

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## Table of Contents

<u>I. INTRODUCTION</u> .....	3
<u>II. ENABLING LEGAL FRAMEWORK FOR DEVELOPMENT OF CIVIL SOCIETY</u> .....	5
1. <u>LAWS GOVERNING THE ESTABLISHMENT AND OPERATIONS OF NGOS</u> .....	5
2. <u>SUPPORT FOR DEVELOPMENT OF OWN INCOME AND PHILANTHROPY</u> .....	9
▪ <u>Economic activities and tax exemptions</u> .....	9
▪ <u>Tax incentives for donations</u> .....	11
▪ <u>Legal framework for volunteering</u> .....	12
<u>III. DIRECT GOVERNMENT FINANCING</u> .....	13
▪ <u>Percentage mechanism</u> .....	14
▪ <u>National Civil Fund, Hungary</u> .....	17
▪ <u>National Foundation for Civil Society Development, Croatia</u> .....	19
▪ <u>Proposal for Creation of Civil Society Endowment, Estonia</u> .....	22
<u>IV. FRAMEWORK FOR COOPERATION BETWEEN GOVERNMENTS, PARLIAMENTS AND NGOS</u> .....	23
1. <u>THE INSTITUTIONAL FRAMEWORK FOR DIALOGUE WITH AND SUPPORT TO NGOS</u> .....	23
▪ <u>Hungary</u> .....	23
▪ <u>Croatia</u> .....	24
▪ <u>Estonia</u> .....	27
2. <u>POLICY DOCUMENTS ON COOPERATION WITH NGOS</u> .....	28
▪ <u>Croatian Program of Cooperation and Strategy</u> .....	28
▪ <u>Strategy Paper of the Government of Hungary on Civil Society</u> .....	29
▪ <u>Estonian Civil Society Development Concept and Civic Initiative Support Development Plan</u> .....	30
<u>V. NGO INVOLVEMENT IN POLICY AND DECISION-MAKING PROCESSES</u> .....	33
▪ <u>Hungary</u> .....	34
▪ <u>Estonia</u> .....	36
▪ <u>Croatia</u> .....	38
<u>CONCLUSION</u> .....	40
<u>BIBLIOGRAPHY</u> .....	42

## I. INTRODUCTION

The cooperation between the state bodies and non-governmental organizations (NGOs)<sup>1</sup> in Central and Eastern Europe (CEE) has increased significantly in the past several years. There is a well-recognized tendency among the countries to expand the scope of applicable areas of cooperation, to increase the available forms and mechanisms for cooperation, and to institutionalize the partnership so as to ensure continuity and sustainability.

The forms of cooperation include a wide range of tools and mechanisms. Primarily, governments have supported the civil sector through enacting a favorable legal environment for establishment, operation and sustainability (e.g., by creating mechanisms to enable NGO to utilize diverse sources of funding). Governments and NGOs have improved partnership in the delivery of social services, and governments have increased support to NGOs through grants and subsidies. Importantly, some governments have adopted mechanisms to financially support the development of the sector (e.g., Croatian National Foundation for Civil Society Development and Hungarian National Civil Fund).

Parallel to the financial relationship and partnerships in meeting social needs, governments and NGOs throughout CEE have recognized the importance of having continuous dialogue and longer term strategies for cooperation and support to the development of the sector. Therefore, some governments have established separate units, offices or departments to institutionalize the cooperation with NGOs (e.g., Croatia, Hungary, Macedonia, Slovakia, Czech Republic). The role of these offices includes furthering democracy and strengthening cross-sector relationships, developing and implementing cooperation agreements, fostering dialogue, enhancing NGO participation in decision-making and supporting the development of coherent policies for the development of the sector.

Furthermore, public authorities throughout the region have adopted policy documents, such as programs for cooperation or targeted strategies (e.g., Estonia, Hungary, Croatia, Latvia and Macedonia) which help strengthen the cooperation and support. These documents differ in terms of purposes and goals; however they all outline the basic principles of the cooperation and promote active measures that should be undertaken by the government to support the development of the sector and foster cooperation. Estonia and Hungary have already implemented the first strategies and have been able to draw lessons from the process, which serve

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<sup>1</sup> In this paper the term NGO will refer to associations, foundations, and other legal forms or informal type of organizations which are recognized in the selected countries.

as a base for the development of follow-up documents. On the other hand, Croatia and Macedonia have just developed their strategies and are in the first phase of their implementation.

Although there are many positive developments in the cooperation between CEE governments and NGOs, the process of the development of partnership carries many lessons to be learnt and shared with other countries. While the mechanisms or tools for cooperation might be similar, the processes are different in terms of the purposes and motivations, the initiators of the mechanism, the challenges and negotiations in the process and finally in terms of the results that have been achieved.

This paper will provide an overview of the development of legal and institutional mechanisms to strengthen the cooperation between governments and NGOs in three countries of CEE: Hungary, Estonia and Croatia. The Hungarian legal and institutional framework for cooperation can be regarded as one of the most advanced in the region. The Croatian “model for civil society development” which features three state bodies as promoters of the development process is an excellent example of a local needs-driven initiative, which aims to foster partnership in the fields of consultation, participation and funding. Estonia is the first country to develop a policy document for cooperation in the region and is currently developing a new mechanism for government funding for the overall development of the sector.

The paper will cover the following issues:

- (1) The basic regulatory framework that supports the establishment and operation of NGOs and an overview of government efforts to ensure financial sustainability of the NGOs through creating tax benefits for utilizing income from self-generating activities and private donations (philanthropy);
- (2) Analysis of the innovative mechanisms for government funding to support the development of the sector;
- (3) Institutional cooperation between government and NGOs;
- (4) Policy documents for cooperation and development of the sector; and
- (5) Involvement of NGOs in policy and decision-making processes.

By providing a comparative analysis and highlighting the successes and challenges of the development of cooperation and the innovative examples from these countries, the paper will aim to facilitate cross-border learning and enable governments and NGOs to select the appropriate models to foster their cooperation.

## **II. ENABLING LEGAL FRAMEWORK FOR DEVELOPMENT OF CIVIL SOCIETY**

An enabling legal environment for the development of NGOs presupposes the right of citizens to associate freely in order to achieve common interests and needs. An enabling legal environment sets a protective framework for NGO activities and limits the ability of governments to interfere with NGO basic rights to be established and operate freely.<sup>2</sup> It also requires clear and well defined rules that support NGO sustainability and functioning. Equally important, an enabling legal framework contributes towards the development of cross-sector(al) partnerships between NGOs, government, commercial corporations. For example, assume a ministry decides to contract with an NGO to provide services in a certain field (e.g., establishing and operating shelters for homeless people), allocates funding to support partially the provision of those services, and requires the NGO to match the ministry funding and use other resources to provide the service fully. The laws can support this relationship (and the provision of the services) in several ways. First, the law could allow NGO to generate its own income (e.g., sell publications on housing issues) and could exempt such income from taxation. Second, recognizing the importance of attracting private resources, the law could encourage the NGO to reach out to individuals and corporations and seek their donations, through prescribing tax benefits for individual and corporate donations to the NGO. Third, the NGO may want to rely on volunteers in the implementation of its activities (e.g., volunteers can organize some activities for the homeless people during the day). By removing the obstacles to volunteering (e.g., exemption from taxation reimbursement of expenses to volunteers such as travel to the shelter and food), the law can support citizen involvement in publicly beneficial activities, such as the provision of social services.

### **1. Laws Governing the Establishment and Operations of NGOs**

The basic NGO laws create frameworks for the overall operation of NGOs, by regulating the basic lifecycle of the organizations from registration to dissolution, including the type of activities they can engage in (e.g., political activities, economic activities, and participation in policy or legislative processes), the status of public benefit (see below), internal governance

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<sup>2</sup> Hadzi-Miceva, K., “A Supportive Financing Framework for Social Economy Organizations”, paper developed for and presented at a conference on Social Economy in CEE: Emerging Trends of Social Innovation and Local Development, organized by OECD and LEED Program (2005)

structure, and the ability to join unions or umbrella groups. The Croatian, Estonian and Hungarian Governments have all enacted generally supportive laws for the establishment and operation of NGOs.

For the last decade, Hungary has been considered a leader in legislation affecting NGOs. The first laws regulating associations and foundations were adopted in 1987, which provide a framework for the establishment, governance and operation of these organizations. In 1997 Hungary adopted the Act on Public Benefit Organizations (PBOs), thus distinguishing those organizations that are implementing activities which benefit the general public, and setting the basis for tax deductions and other benefits for these organizations. The Estonian Laws on Associations and Foundations came into effect in 1996, and relatively few amendments have been made since. An important development for Croatia was the enactment of the 2001 Law on Associations, which replaced the much criticized 1997 Law on Associations. The 2001 Law largely complies with international standards and regional best practices.<sup>3</sup> Importantly, the enactment of the law resulted from collaborative efforts that included government officials from the Ministry of Justice and the Government Office for Cooperation with Associations, representatives from local NGOs, and experts from international organizations.

All three countries recognize the two basic forms of NGOs: associations and foundations.<sup>4</sup> The foundations in Estonia and Hungary can be grant-making or operating. Foundations in Hungary can only be established for public interest purposes; however, the Hungarian Government is currently proposing amendments to the Civil Code, which would allow for the existence of private-purpose foundations.

Unfortunately, the Croatian Law on Foundations and Funds from 1995 prescribes regressive conditions for the establishment of foundations and gives the registration authority (Ministry of Justice) unwarranted discretionary power over the establishment and internal

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<sup>3</sup> Among others, the new law allowed informal associations to be able to exist (by abolishing the mandatory registration), minimized the number of founders from 10 to 3, allowed foreigners to be able to establish an association, minimized discretionary power of the state during registration, it empowered the court to decide on prohibition (instead of the registration authority) and returns to associations property that was nationalized under the prior framework.

<sup>4</sup> The Estonian and Croatian laws also allow informal, unregistered organizations to operate in the form of civil law partnerships. In Estonia, these organizations can be eligible for some small project grants.

governance of foundations.<sup>5</sup> As a result, only some 75 foundations have been registered in Croatia to date (compare with more than 30,000 registered associations under the enabling Law on Associations).<sup>6</sup>

In addition to associations and foundations, Hungary also introduced a third organizational form - the non-profit company. Under this form, any for-profit legal form (out of the six types which currently are recognized in the Hungarian Company Code) can assume a non-profit status and seek public benefit status under the same conditions as associations and foundations. Furthermore, the Croatian legal system recognizes the “fund” as a third organizational form, which is defined as a foundation, except that a fund can pursue its purposes only on a temporary basis (i.e., for less than five years).<sup>7</sup>

As mentioned above, only Hungary has a separate law which defines public benefit status. Public benefit status distinguishes between organizations that are established for the private interest of the members, such as bridge clubs, from those whose activities benefit a larger community. Public benefit status is fundamental to the sustainability of NGOs because most countries in the CEE region use this status as a conceptual prerequisite to granting tax benefits (exemptions or deductions) or other types of state financial support (e.g., in Poland only organizations which are of public benefit can receive allocations through the percentage mechanism<sup>8</sup>). The Hungarian Act on PBOs is interesting in that it introduced two tiers of public benefit status: basic and prominent. Organizations can obtain the status of “prominent public benefit organization” if they undertake state or local government responsibilities (usually by having a contract with a state body). Although only about 6-8% of Hungarian NGOs have this status, they represent good examples of NGO-government partnership in the implementation of

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<sup>5</sup> For example, the Ministry may deny registration even if a foundation’s statutory goals are perfectly legitimate, if it does not deem the establishment of such a foundation to be necessary. According to the Ministry, registration of a foundation, provided that all submitted documents are in order, may take up to six months.

<sup>6</sup> The Government, with the support of the Government Office for Cooperation with Associations, the National Foundation for Development of Civil Society, international experts and NGOs developed a draft law to improve the existing legal framework however it has not yet been finalized and submitted for enactment.

<sup>7</sup> The draft Law on Foundations, which, if enacted, would replace the 1995 Law on Foundations and Funds, would also eliminate the “fund”.

<sup>8</sup> The percentage mechanism allows taxpayers to allocate a certain percentage of the personal income or profit taxes that they pay, to organizations that fulfill the criteria prescribed in a law. This mechanism will be discussed in more detail below.

projects for the interest of the community that rarely existed before this mechanism was introduced in the system.<sup>9</sup> In addition, prominent public benefit organizations receive higher tax benefits than NGOs who do not have this status or than those organizations with basic public benefit status (see below).

There is no separate public benefit status as such in Croatia or Estonia. In Croatia, the public benefit concept does exist in various laws, but is not consistently defined or applied. In Estonia, as you say, there is a tax-exempt status which is the functional equivalent of public benefit status. Only the organizations that are included on a government list are entitled to tax benefits. The Income Tax Act defines the criteria according to which organizations can be included in that list.<sup>10</sup> There are approximately 1600 organizations in this list.

The decision as to whether an organization can be entered on the list is made by the Tax and Custom Board). However, the law also provides for the establishment of a Committee of Experts, which should provide recommendations to the Tax and Custom Board on every application. The Committee consists of 9 representatives of NGOs, mostly from umbrella organizations from different fields of activities. They are appointed by the Ministry of Finance after consulting with the NGOs. This expert committee was established at the beginning of 2007 and it has met twice so far. The existence of such a committee was considered a positive development, because it aims to provide guidance in defining what public benefit is. So far however, there are two challenges in its work: (1) it faces difficulties in defining public benefit as

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<sup>9</sup> Bullain, N., “Mechanisms of Government-NGO Cooperation in Hungary”, (<http://www.efc.be/publications/sealabstract.html>)

<sup>10</sup> Income Tax Act, article 11 prescribes that an organization (association or foundation) can be entered to the list of associations or foundations benefiting from tax incentives, if it: 1) operates in the public interest; 2) is charitable, that is, offering goods or services primarily free of charge or in another non-profit seeking manner to a target group which, arising from its articles of association, the association supports, or makes support payments to the persons belonging in the target group; 3) does not distribute its assets or income, grant material assistance or monetarily appraisable benefits to its founders, members, members of the management or controlling body, persons who have made a donation to it or to the members of the management or controlling body of such person or to the persons associated with such persons; 4) upon dissolution of the association, the assets remaining after satisfaction of the claims of the creditors shall be transferred to an association or legal person in public law entered in the list; 5) the administrative expenses of the association correspond to the character of its activity and the objectives set out in its articles of association; 6) the remuneration paid to the employees and members of the management or control body of the association does not exceed the amount of remuneration normally paid for similar work in the business sector.

<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X40007K11&keel=en&pg=1&ptyyp=RT&tyyp=X&query=tulumaksu> Professional organizations, trade unions, organizations established by a public institution and political parties (as well organizations that support them) can not qualify for this list.

this concept is still new in the society and there is much “grey zone” around it and (2) the Tax and Custom Board and Ministry of Finance are not receptive to the suggestions of this committee as these recommendations are not binding for them. It is anticipated that in time, with some legislative clarifications, the situation could be improved.<sup>11</sup>

## **2. Support for Development of Own Income and Philanthropy**

Generally, NGOs can benefit from three domestic sources of income: economic activities, or other self-generating income (rent, passive investments), from direct government financing, and from philanthropy (understood as donations in time and money). Hungary, Croatia and Estonia follow a positive trend in providing tax benefits to NGOs to enable them to generate their own income to support their activities. Also the legal frameworks provide incentives to help NGOs to engage supporters and receive financial contributions.

### **▪ Economic activities and tax exemptions**

First, all three countries allow NGOs to engage directly in economic activities, which can be defined as “regularly pursued trade or business involving the sale of goods or services.”(cite?) Income from donations, gifts, passive investment, occasional activities which can also generate income, such as fundraising activities, usually do not fall under the definition of economic activities as described above, because these are not conducted through a market-type transaction.<sup>12</sup>

In Hungary, NGOs can also engage in entrepreneurial or commercial activity which is defined as economic activity aimed at or resulting in obtaining income and property. The law provides that the following is not considered as entrepreneurial/commercial activity: (1) public benefit activity, or in the case of a non-PBO, activity according to the statutory purposes; (2) revenue received from selling goods and inventory serving solely the public benefit purpose or in case of a non-PBO, the statutory purposes; (3) part of the interest received from the credit

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<sup>11</sup> As described by Urmo Kubar, Executive Director of NENO, Estonia.

<sup>12</sup> Hadzi-Miceva, K., A Supportive Financing Framework for Social Economy Organizations, paper developed for and presented at a conference on Social Economy in CEE: Emerging Trends of Social Innovation and Local Development, organized by OECD and LEED Program (2005)

institution or the issuer of securities, or part of the yield of state bonds, based on the proportion of the percentage of revenue from public benefit or statutory activity of the whole revenue.<sup>13</sup>

The reform of the Hungarian tax framework affecting NGOs has resulted in a favorable fiscal environment that supports financially the development of the sector and stimulates philanthropy. In the mid-90's, several provisions were adopted which exempted all NGOs from paying tax on income from mission-related economic activities. For example, all NGOs, regardless of whether they have public benefit status or not, may benefit from tax exemption on the income from commercial activities which does not exceed 10% of total income or 10 million HUF (approx. 39,946 Euro). Further, organizations that have acquired public benefit status are exempt for commercial income that does not exceed 10% of total income or 20 million HUF (approx. 79,892 Euro), and those that have obtained the status of prominent public benefit organizations are exempt up to 15% of total income.

Estonian NGOs are treated in a manner similar to business organizations in that they do not pay taxes on their income, but on certain distributions. Generally, they are permitted to engage in any activity that corresponds to the purposes stated in their statutes and are not taxed on income from such activity. However, if an organization is engaged in business as its principal activity or uses business income for purposes other than those specified in its statutes it cannot be entered into the government list and will therefore not be entitled to the tax benefits.<sup>14</sup>

In Croatia, an organization's income from economic activities is considered taxed exempt only unless the exemption will give the organization an "unjustified privileged position in the market." The Tax Administration, on its own initiative or upon the request of a taxpayer or other interested person, may determine on a case by case basis whether to tax income generated from an NGO's economic activities. It is not yet clear how the Tax Administration will interpret the "unjustified privileged position in the market" language of the law, and what types of activities

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<sup>13</sup> Art.1.1. Act LXXXI of 1996 on Corporate Taxes and Dividend Taxes (CTDT Act)

<sup>14</sup> Article 11 of the Estonian Income Tax provides that The act further defines that a principal activity of an association will be treated as business if over a half of the income of the association is received from business, unless at least 90 % of the business income minus the expenditure related to business are used in the public interest. Further the law states that the following will not be considered as business: 1) activities directly related to the objectives set out by the articles of association (for example publication of printed matter, training, information exchange, organization of events); 2) activities for the sale of donated capital; 3) organization for lotteries and auctions for charitable purposes, and other such activities for collecting donations unless such activity is the principal activity of the association; 4) receiving financial income which results from the principal activity.

will be considered to afford such a position to an NGO. An organization that is found to have an “unjustified privileged position” is taxed at the regular business rate of 20%.<sup>15</sup>

- **Tax incentives for donations**

Hungary provides for tax deductions only for donations given to PBOs. Businesses may deduct 150% of the amount of all donations up to 20% of pre-tax income if they donate to "prominent" PBOs, which perform governmental services. For other PBOs, companies can deduct the whole amount of donations up to 20% of pre-tax income. Hungary also prescribes a combined aggregate limit of 25% of pre-tax income if the donor gives to both types of PBOs. An individual may take a tax credit equal to 30% of the donation to a public benefit organization or public interest commitment<sup>16</sup>. The credit may not exceed 50,000 HUF (approx. 200 Euro). In the case of donations to prominent public benefit organizations, the tax credit is 30% of the donation, up to 100,000 HUF (approx. 400 Euro). As of 2006, however, taxpayers above a certain level of income may not claim any tax benefits (including those relating to donations).

In Estonia, income tax is not charged on gifts and donations made to persons included in the government list or to a person who owns a hospital, to a state or local government, to a scientific, cultural, educational, sports, law enforcement or social welfare institution, to members of the "church-register" or to a manager of a protected area, up to 3% of the amount of the payments subject to social tax made by the taxpayer during the same calendar year or 10% of profits for the last financial year of a taxpayer dissolved as of January 1.<sup>17</sup> In Estonia, individuals may deduct up to 5% of taxable income for documented gifts and charitable contributions to the same recipients as businesses can donate to, including also public universities and political parties.

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<sup>15</sup> “Survey of Tax Laws Affecting NGOs in Central and Eastern Europe” published by the International Center for Not-for-Profit Law (second edition, 2003, [www.icnl.org](http://www.icnl.org)).

<sup>16</sup> A “public interest commitment” is a particular fund established with the aim of raising money for a specified purpose (family opening an account to receive funds from the public for an operation for their child who needs a medical treatment).

<sup>17</sup> Estonia eliminated the system of taxation of profit, and replaced it with the system of taxation of profit distribution. Based on this system, all legal entities pay taxation on the distributions in the form of salaries, fringe benefits, gifts, charitable contributions, dividends etc. For a more detailed overview of this system

In Croatia, donations made by corporations or individuals to organizations pursuing cultural, scientific, educational, health, humanitarian, sports, religious, and other activities are deductible up to 2% of the donor's income generated in prior calendar year. The established threshold may be exceeded upon approval of the competent ministry. The Government Office for Cooperation with NGOs, the National Foundation and NGOs have initiated discussion around the concept of public benefit status and the necessity of clarifying the legal framework, in order to expand the list of activities that may benefit from tax deductible donations.

▪ **Legal framework for volunteering**

Volunteers are critical to the success of civil society initiatives around the world. They contribute to humanitarian relief efforts, service delivery to underserved populations, advocacy efforts representing those with limited or no voice in public affairs, and provide other needed services. The Croatian and Hungarian Governments and NGOs have come to recognize the value of volunteering and they have launched programs to support and promote it. In addition, they have also undertaken efforts to remove legal obstacles to volunteering and create a favorable legal environment for citizens' engagement and social contribution. Hungary adopted the Act on Volunteering in Public Interest Activities in 2005, while Croatia adopted the Law on Volunteering in 2007. The Hungarian Act created new opportunities for citizens' activism by establishing a new legal relationship<sup>18</sup> and attaching tax exemptions and other benefits to it. It regulates the provision of "public interest voluntary activities"; however it limits the scope of public interest volunteerism only to volunteering with public benefit organizations, governmental institutions, and public or private service providers in the social, health, educational, cultural, and minority fields. While the law explicitly stipulates that it leaves intact volunteering in other types of organizations or fields of activities, this implies that the extensive benefits and protections do not extend to other types of volunteering. Because over half of registered NGOs do not have public benefit status, this law does not cover the majority of NGOs and their volunteers. In addition, the law requires those organizations that work with volunteers to register with the

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see: "Survey of Tax Laws Affecting NGOs in CEE" published by the International Center for Not-for-Profit Law (second edition, 2003, [www.icnl.org](http://www.icnl.org)).

<sup>18</sup> The new legal relationship of volunteering is clearly distinguished from the employment relationship as well as from the relationship of a paid contractor.

competent Ministry; and it outlines a detailed and bureaucratic procedure of registration as well as conditions under which registration might be refused.<sup>19</sup>

In Estonia, a Development Plan for Volunteering was developed by the Tartu Volunteer Centre with the participation of several NGOs in 2006 and it was adopted by the Joint Committee for implementation of the Estonian Civil Society Development Concept - EKAK (see below). The goal of this plan is to define common understandings and activities in supporting and developing volunteering in Estonia for the period of 2007-2010. The Ministry of Interior is responsible for implementing this Development Plan. However, in 2007 the implementation was supported only with 265 000 Estonian kroons (approx. 17 000 Euros), because the plan was finalized after the state budget for 2007 was approved. Due to lack of funding only limited activities are planned for implementation in 2007.

### **III. DIRECT GOVERNMENT FINANCING**

The government approach towards strengthening partnership with and supporting the growth of NGOs can be also analyzed through the financing policies it has developed. The issue of government funding for NGOs is a significant part of the efforts to conceptualize, rationalize, and organize the government-NGO relationship.<sup>20</sup> Toward that end, all three countries studied in this paper have designed a policy document (program for cooperation and/or strategy) which outlines the core principles of good partnership between the state and the NGOs, including the commitments in terms of government funding opportunities. The core values embedded in the cooperation documents subsequently served as a basis for more specific and detailed pieces of regulation. For example, the Hungarian Government, in its Strategy Paper for Civil Society in 2002, pledged to increase the amount of state funding to NGOs and create the National Civil Fund. Indeed, in Hungary, direct financing as a source of income for the non-profit sector has increased significantly in the past 10 years, and in 2003 reached the target of representing 42% of the sector's total income (whereas in 1993 it amounted to only 16% of the total income).<sup>21</sup>

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<sup>19</sup> Hadzi-Miceva, K., "Comparative Analysis of the European Legal Systems and Practices Regarding Volunteering" (2007), *International Journal for Not-for-Profit Law*, Volume 9, Issue 3.

<sup>20</sup> Hadzi-Miceva, K., and Suplisson, F., (2007) "Overview of State Funding Schemes for Civil Society Organizations, research paper", [www.ecnl.org](http://www.ecnl.org)

<sup>21</sup> Source: Civil Society Development Foundation, Hungary, 2005

Government funding can be distributed through several traditional forms, amounting to three main types of financing: support (usually through subsidies or grants); procurement (usually through service contracts); and third party payments (per capita fees or vouchers).<sup>22</sup> These funds may be distributed from the central level budget (through the parliament, ministries, lotteries, privatization proceeds, public funds and foundations) or through budgets of local governments.

Of all forms and sources, however, it is worth highlighting the current mechanism of government support to NGOs through the percentage tax allocation mechanism in Hungary, the Hungarian National Civil Fund, the National Foundation for the Development of Civil Society in Croatia and the new initiative in Estonia to create an Endowment Fund. What is important in all these initiatives is that they provide an opportunity for NGOs to gain access to funds which can support their institutional, core costs – funds which are hard to obtain otherwise. With the exception of the percentage mechanism, all other mechanisms have been created following demands by NGOs that there is a need for a more targeted and transparent and – indeed - creative policy for the support of the civil sector as a whole.

The procedural aspects of granting government funding deserve particular attention. In most CEE countries the mechanisms for distribution of government funding lack sufficient levels of transparency and accountability, and clear procedures. To respond to these challenges countries have undertaken initiatives introduce principles of good government funding in codes or regulations. For example, in Estonia a “Code of Good Practice on Funding”, an initiative led by the Network of Estonian Nonprofit Organizations (NENO), is currently the focus of consultations between the public sector and NGOs, and is expected to be finalized by the end of 2007. This forthcoming agreement will serve to harmonize the principles of public funding processes (e.g. determining the form and setting the objectives of funding, eligibility criteria, grant tendering and application processes, selection criteria, contracting and payments, and reporting, monitoring and evaluation). Croatia also adopted a similar code (described below) and is currently assessing its implementation in order to improve the procedural processes.

- **Percentage mechanism**

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<sup>22</sup> Bullain, N., and Toftisova, R., “A Comparative Analysis of European Policies and Practices of NGO/Government Cooperation” (2005), International Journal of Not-for-Profit Law, Vol. 7, Issue 4, [http://www.icnl.org/knowledge/ijnl/vol7iss4/art\\_1.htm](http://www.icnl.org/knowledge/ijnl/vol7iss4/art_1.htm)

The percentage mechanism was introduced for the first time in Hungary with the enactment of the Act CXXVI of 1996 on the Use of a Specified Portion of the Personal Income Tax (the “one-percent law”). It is a form of tax allocation, which allows taxpayers to designate a portion of the tax they need to pay to a specific organization. The initial idea of the “one percent law” was brought into the political debate in the context of church financing, when in the early 1990s the restitution of churches required a solution regarding their public support. However, in addition to this, the issue of financing of NGOs was entering the government agenda. All Hungarian government coalitions in the past few years found it important to stress their commitment to the strengthening of this sector by targeting two problems: (1) Hungarian NGOs received proportionately less foreign support than NGOs in other CEE countries and (2) the distribution of state funding to NGOs was over-politicised. The central notion of the “one-percent law” thus became the possibility for party-neutral public financing of NGOs through a tax designation mechanism.<sup>23</sup> The percentage mechanism in Hungary enables individual taxpayers – natural persons – to designate 1% of their paid income taxes to a qualifying NGO and another 1% to a church (in addition to NGOs, there is also a list of budgetary institutions, and as an alternative to a church, a special budgetary priority objective is named each year). Taxpayers may make the designations on special forms enclosed in the tax return. The tax authority transfers the amounts designated after the beneficiary proves its entitlement, and the designators remain anonymous.<sup>24</sup>

After Hungary introduced the so-called “1% Law”, Lithuania, Poland, Slovakia and Romania have adopted similar legislation. Hungary has witnessed over 9 years of implementation of this law. Therefore, one can draw some lessons learnt from its experience.<sup>25</sup>

In addition to the reasons mentioned above, there are two other overarching objectives behind introducing such mechanism: (1) increasing the pool of resources available to NGOs and (2) helping to develop a philanthropic culture among taxpayers. However, there are several concerns expressed by policy makers, NGOs and experts in terms of whether and to what extent

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<sup>23</sup> Bauer Tamás, “Hungary’s 1% Law: A Brief History”, <http://www.efc.be/newsletters/seal/contentsseal2004.html>

<sup>24</sup> For details see: Bullain Nilda, “Percentage Laws Explained: Percentage Philanthropy and Law” ([www.ecnl.org](http://www.ecnl.org))

<sup>25</sup> Some of the lessons learnt described here have been taken from two previously developed papers which addressed the topic: Hadzi-Miceva, K., “A Supportive Financing Framework for Social Economy Organizations” (2005), and “Cooperation Between the Government and Civil Society Organizations in Hungary”, report prepared for the British Council by ECNL (2006)

the mechanism meets these objectives. First, the potential group of “donors” is limited as only taxpayers, and furthermore, only individual taxpayers can designate the percentage<sup>26</sup>. Second, it allows only a limited amount (i.e., 1% in Hungary) to be designated which in terms of revenues may be quite small compared to other resources available to the sector (e.g., donors under the traditional scheme of tax deductions are not limited as to how much they can/want to give to the NGOs). Consequently, contrary to philanthropic giving, the “percentage cake” available to the NGOs has a finite size and cannot be increased. Thus, it is not only that the amount of available funding is limited, but also the receipt of a larger portion by one NGO reduces the amount available to others. It seems that in the end a small cluster of organizations (e.g. those who run the best marketing campaigns) benefit disproportionately from the mechanism. In addition, the overall amount may be quite small compared to other sources of revenue as the economy develops. In Hungary it was found to be less than one percent of the total revenue of the sector<sup>27</sup>. Although all taxpayers can designate the funds with no cost to them, only 35% in Hungary use this opportunity. Finally, the effect of the mechanism on philanthropy cannot be easily assessed, as there are no comprehensive research results, which can show whether the law has achieved its second objective. Individual giving has not increased significantly in Hungary. One study shows that those who regularly designate their 1% also give donations in higher amounts or more frequently. However, this may also mean that those who are more philanthropic also designate their tax percentage more often as this is the higher income and higher educated group of taxpayers. This raises the question of whether their philanthropic behavior would be the same regardless whether the percentage mechanism exists or not, given that they are more socially sensitive and active anyway.

Despite the above challenges, this mechanism does have certain advantages. Specifically, it has proven to be a good resource for local and smaller NGOs, because it is easier for them to mobilize local support (although in terms of the actual amount of funds it has a bigger impact on the larger NGOs who champion popular issues such as children’s care or animal shelters). It creates competition among NGOs, thus contributing to increased professionalism, better communications and improved image. Most importantly this was the first and major reason why NGOs in Hungary started to communicate with their constituencies rather than with the government grant departments. As a result NGOs have become more embedded in their local communities. In addition, the mechanism gives the possibility to taxpayers to decide on how a

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<sup>26</sup> Except in Slovakia where corporate taxpayers can also designate 2% of their profit taxes.

<sup>27</sup> Central Statistical Office, 2002

certain percentage of their tax money is spent (decentralizing and de-politicizing the decision making process), increases awareness about the importance of civil society and sends signals about needs they find important to be supported. The government also benefits as it is able to monitor the preferences of society and regain part of the "lost revenue" through other taxes, e.g., VAT.

- **National Civil Fund, Hungary**<sup>28</sup>

In 2003, the Hungarian Government established the National Civil Fund with the aim to provide a mechanism for institutional support to NGOs.<sup>29</sup> The idea behind this mechanism came from the need to provide state support for NGO operational costs beyond the existing percentage mechanism. Thus, the National Civil Fund supplements the mechanism of percentage allocation in that the government matches the amount of funds that are designated to NGOs through the percentage system<sup>30</sup>. 60% of the resources of the National Civil Fund are allocated to NGOs to support operational costs. In addition, funds from this source also support development programs (research, education, international representation). Elected NGO representatives sit on committees tasked with deciding on the distribution of the funds. Specifically, the Fund is administered by a Council and a number of regionally based Colleges. The Council is the strategic decision-maker, which sets the priorities, divides up its resources among the various purposes, and develops its other rules. It consists of 17 members (2 representatives of the Parliamentary Committee on Civil Society; 3 representatives of the Ministry; and 12 representatives of civil society: 5 elected from national organizations working in various fields, 7 elected on a regional basis). The Colleges<sup>28</sup> are the operative decision-makers, deciding about

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<sup>28</sup> For details see: Hadzi-Miceva, K., "A Supportive Financing Framework for Social Economy Organizations, 2005 ([www.ecnl.org](http://www.ecnl.org))

<sup>29</sup> The National Civil Fund was established to support: operational expenses of civil organizations; public benefit activities of civil organizations; anniversaries, festivals, domestic and foreign events involving civil organizations; ensuring the presence of Hungarian civil organizations in international civil relations; scientific research related to the civil sector; supporting monitoring activities and tasks related to registration; educational, service, advisory, development and assistance activities and institutions related to the civil sector; promotional materials introducing the civil sector, supporting electronic and written media specialized in this field; civil organizations to raise their own contributions for tenders; grantmaking organizations based on the decisions of the Fund Program Council and the Colleges, such decisions pertaining to automatic provision of resources determined by unified principles; covering the expenses related to the operation and administration of the Fund Program; supporting activities of civil society representation.

<sup>30</sup> I.e. the government will provide from the budget the same amount to the National Civil Fund as was designated (in total) by taxpayers to NGOs in the preceding year and the law states that in no case the fund will contribute less than the 0.5% of personal income taxes collected.

concrete grant proposals. They are organized both on a regional and a professional basis; however, their exact number and composition is still to be decided. Colleges have 5-11 members, the majority selected from NGOs.<sup>31</sup> In the first year a total of 28 million Euros was distributed to support the operational costs of over 3,500 organizations.

The introduction of the National Civil Fund was accompanied by great enthusiasm from NGOs. However, the first couple of years of distribution of the funds faced many challenges, which raised concerns over its real effect. This was due to the lack of carefully planned implementation mechanisms on the side of the government. It revealed that in conceptualizing the National Civil Fund the Government did not consider a concrete overall strategy to develop the sector. Even the uniquely designed NGO participation in decision-making bodies raised controversies over conflict of interest issues.<sup>32</sup>

Specifically, the implementation of the National Civil Fund was based on application requirements which appeared to be too burdensome and rigid. As a result of complicated and not clearly drafted application forms, approximately 70-90% of the applications were rejected. The responsible Ministry for overseeing the distribution needed to intervene to allow for a broader interpretation of the strict formal requirements so as to permit a higher number of applications to be considered. Consequently, the decision on the distribution of the funds came later than expected, leaving NGOs with only a month to spend the allocated funds, which originally were designed to cover costs for more than a year. At the same time, the substantive requirements were rather broad and lacked strategic focus. Thus, it is questionable whether the implementation of the National Civil Fund indeed supported NGOs to reform and to strengthen institutionally.<sup>33</sup> In September 2006 the State Audit Office found that the Fund faced serious transparency and accountability challenges as well. The implementation of the mechanism revealed that the Minister and the Council did not elaborate an overall strategy to develop the sector, did not elaborate performance indicators, and the criteria for support remained unclear.

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<sup>31</sup> HEPF, ICNL, Editors of SEAL, “Hungary’s National Civil Fund: Building on the 1% Law”, in Social Economy and Law (SEAL), Autumn 2003

<sup>32</sup> In fact, the Minister herself made a statement to call the attention of the Council (highest governing body of the Fund) to such controversies. Tényszerűen a Nemzeti Civil Alapprogramról - Göncz Kinga sajtóközleménye 2005. augusztus 30. (Factually about the National Civil Fund - press release of Kinga Göncz, Minister of Youth, Family and Social Affairs, August 30, 2005)

Although, the funding potential of this mechanism is considerable, its impact on general financial sustainability in the longer term largely depends on the willingness of the government and the Governing Council of the Fund to learn from the challenges of the first few years and to revisit the goals, in order to improve the effectiveness of the system. For example, for the second year of operation, the Council successfully developed a more clear and user-friendly application system but did not address other issues which could help the Fund achieve its purpose, such as criteria and types of projects that should be supported.

- **National Foundation for Civil Society Development, Croatia**

Until 2003, the Government Office for Associations (see below) was the main actor that distributed public funds to NGOs. It used to channel funds to all areas of work of NGOs, from human rights, education of youth, health, development of civil society, unemployment, etc. Independent experts' working groups were created to review and assess the projects and programs submitted for public funding. Although Ministries had certain funds to support projects of NGOs, this was not practiced widely and the cooperation in program implementation and funding became more centralized and focused mainly on the relationship between the Office for Associations and the organizations. In 2003 the Government established the National Foundation for Civil Society Development (National Foundation)<sup>34</sup> as a public foundation, with the basic purpose of promoting and developing civil society in Croatia and decentralizing the cooperation between the government and NGOs (for a more detailed description of the model and relationship between different state bodies, see below).<sup>35</sup>

The establishment of the National Foundation was the culmination of a 24-month process led by the Government Office for Association. The first step was developing a proposal for amendment of the Law on Games of Chance and Competitions, which would create the material basis for the establishment of the National Foundation. According to the Law on Games of Chance and Competitions, which was enacted in 2002, 50% of the moneys collected through

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<sup>33</sup> See USAID *2004 Sustainability Index for Central and Eastern Europe and Euroasia*, [www.usaid.gov](http://www.usaid.gov)

<sup>34</sup> Official Gazette of Republic Croatia, no.173/03.

<sup>35</sup> The factual information about the work of the Foundation in this paper has been drawn from the website of the Foundation and its annual reports. For more see: <http://zaklada.civilnodrustvo.hr/>

games of chance are allocated for civil society organizations in Croatia.<sup>36</sup> Out of the 50%, 14.5% are allocated to the development of civil society. 96.55% of the 14.5% allocated to development of civil society are allocated through the Government Office for Associations to the National Foundation, which then distributes them for the program “Our contribution to the community”. The remaining 3.45% are distributed through the Ministry of Foreign Affairs and European Integration for international cooperation programs.

In addition to the funds from the lottery proceeds, the National Foundation is financed through private donations, income from economic activities and other sources. The Foundation aims to promote the sustainability of the sector, cross-sectoral cooperation, civic initiatives, philanthropy, and voluntarism. Core activities include: (1) education and publications, (2) grantgiving, (3) public awareness campaigns, (4) evaluation services, (5) research and (6) regional development. Importantly, the Foundation is be governed by a Management Board composed of 3 representatives from the Government, 1 from local governments and 5 from NGOs.

The establishment of the National Foundation was seen as a critical step towards improving the system of public financing for NGOs. As noted above, it marked a shift from a highly centralized system, in which the Government Office for Associations played the critical role, into a more de-centralized system. Accordingly, the role of line ministries was emphasized and they remain responsible for the funding of and cooperation with NGOs within their own jurisdiction. In the same time, the Foundation focuses on supporting grass-roots initiatives and programs that do not necessarily fall within the competence of any particular ministry. In this way a more equitable distribution of responsibility among government stakeholders was ensured.<sup>37</sup>

To guarantee that grant-making decisions, whether made by the National Foundation, the ministries, or the local governments, are made according to established standards of transparency, a “*Code of Good Practice, Standards and Criteria for Providing Financial Assistance to*

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<sup>36</sup> Every year the Government adopts a “Decree on the Criteria for the Distribution of the Lottery Proceeds”. According to the decree from 2007, the 50% of the allocated funding were distributed to the following fields: 30.5% sport, 8% fight against drugs and other types of addiction, 4% social and humanitarian activities, 28% problems and needs of people with disabilities, 6.5% technical culture, 5% culture, 3.5% out of institutional education and upbringing of children and youth and 14,5% development of civil society. The funds are distributed through responsible Ministries listed in the Decree.

<sup>37</sup> From Vision to Change: A New Model for Civil Society Development in Croatia, by Cvjetana Plavsamatic and Katerina Hadzi-Miceva, published in Social Economy and Law (SEAL), Winter 2003-Spring 2004

*Programs and Projects of Associations*”<sup>38</sup> was adopted by the Croatian Parliament in 2007. The Code establishes the basic standards and principles for granting financial assistance from the state budget to associations. It applies to all state authorities and offices of the Government, which support the implementation of programs and projects which are of special general/public interest in Croatia. In addition, the National Foundation distributes funds based on the “*Ordinance on the Conditions and Procedure for the Allocation of Funds used for the Fulfillment of the Foundation's Purpose*”.<sup>39</sup>

The Foundation supports several types of programs related to its strategic objectives, including the institutional support program, which supports the organizational development or stabilization for a period of three years, but only for those associations registered in Croatia. A grant is provided to help further the activities of the association and for the performance of its primary activity. Importantly, the Foundation also supports multi-annual grants (2004-2007), which are approved within the program, in the program area of institutional support and stabilization of associations for the program related to the linking of associations. The National Foundation also supports separate projects and programs to foster research, cooperation and development of civil society on national and local level. The total annual income of the National Foundation for 2006 was 31.736.477 kuna (approximately 4,346,270 Euro). The Foundation granted 12.943.80 kuna (approximately 1,772,657 Euro) for the operational support programs of 2004-2006.

During the first year of operations, the National Foundation faced criticism about its process of grant giving. The criticism was triggered by the fact that the body which decides on the grant recipients is also composed of NGO representatives, so questions about impartiality and conflict of interest were raised. As a result, the National Foundation adopted a more clear principle on conflict of interest in the above mentioned Ordinance. The National Foundation has also developed evaluation grids for the tenders that guide the NGOs, but also the evaluators in the process of deciding on the grants. Importantly, to further remedy the problem of conflict of interest, the National Foundation introduced a register of the potential conflict of interest situations which is not a public document but upon request it may be presented for inspection to

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<sup>38</sup> Official Gazette of Republic of Croatia, no.16/2007. The English and Croatian version of the code are available on: [www.ecnl.org](http://www.ecnl.org)

<sup>39</sup> [http://zaklada.civilnodrustvo.hr/eng/natjecaji\\_postupak\\_odobranja.php](http://zaklada.civilnodrustvo.hr/eng/natjecaji_postupak_odobranja.php)

the representatives of authorized bodies.<sup>40</sup> NGOs have highlighted another shortcoming in the rules of distribution of institutional grants. According to the current rules an association which has received institutional support is not eligible to apply to any other separate project or program tender in the course of implementation of such institutional support grant. Further, they cannot apply for another institutional support within 3 years after their grant has expired. NGOs feel that this presents an obstacle for those associations which would otherwise be able to offer more good quality projects under different tenders opened by the National Foundation. In addition, since only a few NGOs are in practice able to fulfill the criteria, the number of NGOs who can actually use this opportunity is limited.<sup>41</sup>

- **Proposal for Creation of Civil Society Endowment, Estonia**

Although the idea for the creation of a Civil Society Endowment is still in the formative stages, it is worth mentioning as it promises to be yet another creative initiative to support the operational costs of NGOs. The Endowment was one of the proposals made in a political manifesto of NGOs prior to the parliamentary elections in 2007 that made its way to the Government's Program. The concept was created by the NENO through a participatory process whereby several seminars and meetings with umbrella organizations and experts were held and supplemented by Internet consultations. Currently ministries are studying the concept to provide feedback.

The proposal envisions that the endowment will receive around 20 million Estonian kroons (approx. 1,3 million Euros) from the state budget annually. According to the concept, the new Endowment will focus on 1) funding the operational costs of public benefit NGOs, 2) supporting projects that create a more favorable environment for NGOs, and 3) local projects that promote civic participation and cooperation between NGOs. According to the proposal the Endowment would be managed by a Board consisting of 3 representatives from the government and parliament and 6-8 members who will be nominated by NGOs and selected by the Joint Committee between the government and NGOs for the implementation of EKAK.

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<sup>40</sup> Article 9: Protective Measures to Prevent Potential Conflict of Interest, Ordinance on the Conditions and Procedure for the Allocation of Funds used for the Fulfillment of the Foundation's Purpose.

<sup>41</sup> Around 30 NGOs a year are receiving three types of institutional grant support: maximum, middle and minimum for a three-year period. As described by Vanja Skoric, GONG

#### **IV. FRAMEWORK FOR COOPERATION BETWEEN GOVERNMENTS, PARLIAMENTS AND NGOs**

The framework for cooperation between governments and NGOs has been institutional through the establishment of different liaison offices for cooperation and communication as well as adoption of policy documents on national level. In addition, in some countries (such as Estonia and Hungary) the Parliament has also played a role in developing cooperation with NGOs and setting an overall example for a progressive state approach to supporting the development of NGOs and encouraging cross-sector dialogue.

##### **1. The institutional framework for dialogue with and support to NGOs**

- **Hungary**

Over the years, the system of communication and cooperation with NGOs has become institutionalized across the government, both horizontally and vertically. It started with the introduction of special departments dealing with NGO support in the line ministries. In some ministries (e.g. social and employment), special councils or working groups have also been set up (with NGO participation) to advise the minister on professional issues and strategy development. Currently, there are also a number of offices, which promote cooperation between the state and the NGOs.

First, in 1998, a Department for Civil Relations was established in the Prime Minister's Office, which now operates under the Ministry of Labor and Social Affairs. The Department was established by government decree, without any participation of civic organizations in the process. However, its first leader was recruited from the NGO sector and thus, from the very beginning the staff of the Department was aware and responsive to the needs and concerns of NGOs. The Department is responsible for initiating laws for the development of the third sector (e.g., in 2005 it was closely engaged in the drafting of the Volunteering Act) and facilitating dialogue with NGOs. It was responsible for drafting the Government strategies towards civil society (see below). The Department also provides information about available European Union funds and supervises the implementation and work of the National Civil Fund. It is currently working to develop a nationwide database system for NGOs, which is lacking in Hungary.

More recently, a special department was set up in the Ministry for Local Governments and Regional Development, which also houses the National Development Agency (responsible for implementing the European Union National Plans and Structural Fund Programs), called the Department for Social Dialogue, which is responsible for coordinating involvement of NGOs and other social partners in the development, implementation and monitoring of European Union instruments in Hungary.

Furthermore, practically every Ministry has by now set up a contact office or at least a person responsible for liaising with civic organizations. As ministries engage in more and more intensive working relationships with NGOs, they each develop their own internal rules and systems to support NGOs and involve them in decision-making processes.

Regarding the Parliament, a Parliamentary Committee for the Support of Civil Organizations existed from the early 1990s until 2006. It used to grant budget subsidies to national associations and with the institutionalization of the National Civil Fund, which overtook the grant giving role, this Committee took on the responsibility for legislative policy concerning the sector. In 2006, however, it was merged with the Committee on Human Rights, Religion and Minorities.

In addition, a Civil Office of the Parliament also continues to exist, which fulfils an informational role; e.g. maintains a database of NGOs to which it sends out the Parliament's legislative agenda sorted by area of interest (e.g. if an NGO wants to receive the legislative plans on environment related laws, they can sign up for such option); answers NGO inquiries; coordinates and arranges NGO participation in the various Committee meetings etc.

#### ▪ Croatia

The institutionalization of the NGO-Government cooperation in Croatia commenced with the establishment of the Government Office for Associations, a centralized NGO liaison office on the Government level. Subsequently, the Government established the Council for Development of Civil Society (the Council) which works in partnership with the office. The cooperation between the two sectors proved to be a vibrant process that was flexible to adjust to the current needs of the two sectors. In 2002, the Government promised to submit a proposal for financing

NGOs to the Croatian Parliament.<sup>42</sup> The Government Office for Associations immediately embarked on this initiative and developed plans for a decentralized system of funding and cooperation. As a result, the framework of the New Model of the Organizational Structure for Civil Society Development in Croatia (“the new model”) was established. This model consists of three bodies: the Office for Associations, the Council and the National Foundation for Civil Society Development (described above). The model also envisioned the creation of a Strategy for the Development of the Civil Society (which was adopted in 2006) and harmonization of the state funding process.

As mentioned above, the introduction of this model was triggered by the need to support direct communication between various Ministries and NGOs, in order to enhance their cooperation in addressing particular social needs. Until then, the NGO-Government cooperation was mainly centralized and was functioning effectively only between the Office for Associations and NGOs. The relationship with the other state bodies was not so developed. The new model also opened the possibilities of diversifying funding sources for NGOs and of tapping alternative and matching funds for joint NGO-government activities. The new model increased the cooperation between different ministries and NGOs and it encouraged Ministries to designate a person or unit responsible for fostering cooperating and dialogue with NGOs.

The Government Office for Cooperation<sup>43</sup> with Associations was established in October 1998 by the Act of Government of Republic Croatia. The Office for NGOs was primarily entrusted with the task of building confidence and developing cooperation through financing, consulting, educating and information sharing. It also coordinated working groups on various legislative initiatives affecting NGOs, such as the Law on Associations, the Law on Income from Games of Chance and Competitions, the Law on Volunteers etc. Most importantly, the Office for Associations achieved remarkable results in drafting and implementing a transparent national program for public financing of NGOs. The Office for Associations channeled funds in all areas of work of NGOs, from human rights, to education of youth, health, development of civil society, unemployment, etc. Working groups of independent experts were created to review and assess the projects and programs submitted for public funding. During the period 1999-2003, 1,997 programs and projects were funded in the total amount of approximately 13,830,004 Euros. With the opening of the Office for Associations, a new era began in the relationship between the

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<sup>42</sup> Government of Republic of Croatia, Program of Work for 2000-2004 (as cited in “From Vision to Change,” publication by the Government Office for Associations, 2003).

<sup>43</sup> [www.uzuvrh.hr](http://www.uzuvrh.hr)

Government and NGOs and a new incentive was given for the further development of cooperation.

A further step in the advancement of collaboration between the government and NGOs in Croatia was the establishment of the Council for the Development of Civil Society as a governmental advisory body in 2002. The Council is composed of 10 representatives from the Ministries and 14 representatives of civil society (elected by the NGOs themselves). The Council focuses its activities on the implementation of the Strategy for the Development of Civil Society and harmonization and oversight of financial support provided from the State budget for financing NGOs programs/projects. The role of the Council is to provide advice to the Government regarding NGO development and policies, as well as to coordinate efforts in realizing goals and action plans developed in the “*National Strategy for Creating Supportive Environment for the Development of Civil Society*”. The Council has no veto power over Government’s decisions, but can initiate different discussions important for civil society development and oversee the implementation of policies and strategies. In past years it was proven that the work of the Council seems to depend greatly upon the motivation of its members and, especially its President.

As mentioned above the third body in this model is the National Foundation for Civil Society Development. In addition to grant mechanisms, it also runs educational, training and research programs. Its goals focus on (1) the encouragement of public action, inclusion and participation in community development, (2) building capacity of civil society organizations, (3) the development of inter-sectoral cooperation and cooperation between civil society organizations, (4) increasing public influence and the visibility of the work of NGOs, (5) the development of social enterprise and employment in the not-for-profit sector and (6) increasing the influence of the civil society in the process of adoption of public policies.<sup>44</sup> The National Foundation cooperates with all three sectors of the society: public authorities, business and NGOs. In 2007, the National Foundation selected, through a public competition, three organizations and their network of organizations, located in three major regions in Croatia, with whom it will cooperate in the process of financing, regional development and capacity building of the third sector. This initiative was one of the efforts of the National Foundation to decentralize further the cooperation and financing schemes. The National Foundation has participated in

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<sup>44</sup> Operational Strategy of the National Foundation for Civil Society Development 2004-2007 ([http://zaklada.civilnodrustvo.hr/index.php?p=eng\\_o\\_zakladi&s=32](http://zaklada.civilnodrustvo.hr/index.php?p=eng_o_zakladi&s=32))

many legislative drafting initiatives aiming to improve the legal framework for NGOs and conducted significant research on issues relevant for the Croatian NGOs.

In addition, with property granted by the Government, the National Foundation established the *European Centre for Cross-Sectoral Partnerships (IMPACT)* in Zadar, which aims to become a European center of excellence in education and training for representatives of all three sectors in society, for innovative and sustainable programs of inter-sectoral cooperation.<sup>45</sup>

- **Estonia**

In Estonia, the Minister of Regional Affairs who works in the Ministry of Interior (?) is responsible for the development of civil society (together with his other duties that include public services and regional policy). The Minister's staff in the field of civil society is limited to two full-time officials dealing with civil society issues and two political advisers. Although the Minister has declared a plan to form a department for civil society, the concept of such department has to date not been developed. Other Ministries cooperate with NGOs as well; however the extent of this co-operation can vary considerably. Notable examples include the Ministries of Foreign Affairs, Economic Affairs, Culture, Finance, Education, and Social Affairs.

In addition, the Government Communication Office at the State Chancellery is also engaged actively with fostering the culture of public participation among public authorities. In addition, in 2007 each ministry named an official who is responsible for organizing public involvement in law-making processes.

A parliamentary group for the support of civil society is also formed in Riigikogu (Estonian parliament) that includes representatives from all political parties in the Parliament. More than one-third of MPs belong to this group, thus making it the biggest parliamentary grouping in Riigikogu. The group perceives its role to be discussion of the situation and initiation

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<sup>45</sup> The principal activities of the of IMPACT are: (1) study and educational programs implemented continuously in cooperation with international and national partnership organizations (2) organization of public debates on the subjects of cross-sector cooperation and partnership, (3) public advocacy of cross-sector cooperation and partnership, (4) interdisciplinary research, (5) technical assistance and counseling and publishing. In addition to educational services, the Centre will offer, on its premises of almost 1,500 m<sup>2</sup>, 20 accommodation units, a multimedia centre, a convention room, an exhibition room and a library.. <http://zaklada.civilnodrustvo.hr/eng/impactENGvise.php>

of necessary legislation for support of civil society development. However, they have not made legislative initiatives or statements so far.

## **2. Policy Documents on Cooperation with NGOs**

Policy documents on cooperation with NGOs express the position of public authorities on the role of NGOs in society and the commitment for future constructive interaction with them. Such documents outline the principles of cooperation, they provide for a means for NGOs to receive increased support for their work and hence, to expand the areas of their activity in the interest of society and opportunities for partnerships in initiatives for addressing common needs. Since they all aim to promote partnership and dialogue, it is also important that all of them are developed through a highly participatory process and the involvement of NGOs.<sup>46</sup> All three countries analyzed in this paper have developed such policy documents, and all of them have been able to evaluate their implementation.

### **▪ Croatian Program of Cooperation and Strategy**

The first document between the Croatian Government and NGOs was the “Program of Cooperation between the Government of the Republic of Croatia and the Non-Governmental, Non-Profit Sector” which was signed in 2001.<sup>47</sup> The Program of Cooperation is based on “common values of modern democracy and the values of civic initiatives founded on social changes, cooperation, solidarity, social justice, transparency, personal ability and responsibility, participation in decision-making, consideration for personality, self-organisation, consideration for organizational diversity and continuous learning. It aims to create effective mechanisms that will enhance the communication between the Government and the Sector”. Although the Program for Cooperation listed the obligations of the Government and NGOs, it was not perceived as a legally binding document. The Program was conceived as a living document – “a starting point, not a conclusion” – with an “authority evolved from the confirmation” given by both sides. Additionally, the Program of Cooperation anticipated the creation of local and regional compacts so as to decentralize cross-sectoral cooperation. The implementation of the Program of Cooperation has been evaluated positively. It led to legislative reforms benefiting NGOs,

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<sup>46</sup> “A Comparative Analysis of European Policies and Practices of NGO – Government Cooperation” , report by Nilda Bullain and Radost Toftisova ([www.ecnl.org](http://www.ecnl.org))

<sup>47</sup> Available at <http://www.uzuvrh.hr/>

including the new Law on Associations, the Lottery Law, the Law on Volunteerism and draft Law on Foundations, the Code of Good Practice in Grant-Giving, tax law amendments providing deductions for donations to NGOs, and the creation of local compacts in cities throughout Croatia.

Following the successful implementation of the Program for Cooperation, the Croatian Government adopted in 2006 a “National Strategy for Creating Supportive Environment for the Development of Civil Society”. The Strategy outlines the goals and measures that should be accomplished by 2011 in order to increase and strengthen the legal, financial and institutional framework for the support of civil society. Specifically, the Strategy contains targeted objectives and measures in the fields of participation in decision-making, the legal and tax framework for NGOs, the institutional framework for cooperation, financing of NGOs through contracting, development of social enterprises, development of philanthropy, volunteering and foundations, social cohesion, and the role of NGOs in the process of European Union integration. The Strategy was developed through a highly consultative, collaborative and participatory process by NGOs and government officials. Upon the adoption of the Strategy the Office for Associations developed an Operational Plan for Implementation of the Strategy which was adopted by the Government in February 2007. The Operational Plan clearly outlines all the measures necessary to support the implementation of the Strategic goals, the deadlines and the responsible ministries or state bodies.

- **Strategy Paper of the Government of Hungary on Civil Society**

In 2002, the Department for Civil Relations led the process of development of a Strategy Paper of the Government of Hungary on Civil Society. The Strategy was initiated as a result of the fact that the then newly-elected government made cooperation and communication with civil organizations a priority objective. The elaboration of the policy document and consequent legislation was put on the fast track and its development was – though contentious - highly participatory. Comments from the NGOs were considered and mostly integrated into the final document. Initially, the government actually envisioned the signing of a “real” compact type agreement with the representatives of the NGO sector, which would have required a single representative body of the NGOs to sign it. Since there was strong resistance among civil society

organizations against such a notion of a single representative body of NGOs, the government had to abandon this idea.<sup>48</sup>

In terms of its implementation, the Hungarian Government has accomplished the central idea of the Government Strategy, that being the establishment of the National Civil Fund and also has made progress in its legislative plans, especially by adopting the Law on Volunteering.

In 2006 the Government launched a process of developing a new strategy for its partnership with civil society. At this time, however, instead of developing one central strategic document for the whole Government, the Ministries were entrusted with developing their own separate strategies, to help decentralize the cooperation and make it more effective. Besides the Ministry documents, a second Governmental Strategy was also developed and adopted in 2007.

#### ▪ **Estonian Civil Society Development Concept and Civic Initiative Support Development Plan**

The Estonian Civil Society Development Concept - EKAK is perhaps the only policy document adopted by a Parliament in CEE. EKAK was adopted in 2002 and a joint committee for its implementation was created in order to advance the implementation goals of EKAK. EKAK reflects the following priorities for development of the sector: sustainability, accountability, and transparency mechanisms for civil society. The national priorities are reflected in EKAK activities, which are designed to address issues of great concern to both the public and voluntary sectors, including legislation regulating citizen initiatives, involvement of citizens and citizens' associations in decision-making processes, financing of citizens' associations, compilation of statistics on the NGO sector's size and activities, civic education, and public awareness.<sup>49</sup> The Estonian EKAK has its own Implementation Plan, and the implementation schedule is followed strictly by both parties. The EKAK implementation plan formulates goals, activities to achieve each goal, and specific indicators to measure achievement. It allocates responsibilities and contains a fixed schedule. Although the implementation plan was drafted in pursuit of the EKAK's short-term priorities, it also came as a result of the government's and the non-profit sector's joint efforts and understanding of the essential aspects of civic, legislative, and economic life in the country and the importance of adopting a

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<sup>48</sup> "A Comparative Analysis of European Policies and Practices of NGO – Government Cooperation" , report by Nilda Bullain and Radost Toftisova ([www.ecnl.org](http://www.ecnl.org))

<sup>49</sup> Toftisova, R., Implementation of NGO-Government Cooperation Policy Documents: Lessons Learned, IJNL, volume 8, issue 1 (2005) [http://www.icnl.org/knowledge/ijnl/vol8iss1/special\\_2.htm](http://www.icnl.org/knowledge/ijnl/vol8iss1/special_2.htm)

comprehensive approach to solving problems in these areas.<sup>50</sup> The Estonian EKAK resulted from bilateral initiatives and nationwide public discussions.

*“The process of writing, rewriting and once again rewriting the document also became an international success story. Kristina Mänd, executive director of NENO, recalls how an Indian rose from his seat at a meeting in Canada, which the country's NGOs, politicians and public officials had summoned, slapped his fist on the table and told Canadian officials: "If you can't do it like Estonians, don't do it at all!" Unlike the Estonians, the Canadians felt that they had been pushed too far into the background when a similar Canadian document, the Accord, was discussed. Indeed, even before the concept was adopted by the Riigikogu, Estonian NGOs had talked about the paper in the USA, Canada, Japan, Hungary, Ukraine, Australia, Denmark, the Czech Republic, Germany, Poland, Russia, Latvia, Lithuania, South-Africa, Brussels, Strasbourg... Everywhere it became a "best practice" and was cited with excitement. According to program manager Daimar Liiv, who coordinated the completion of the document, it is the first cooperation document of its kind approved by a country's parliament. "It demonstrates to the world that a political agreement has been reached in Estonia between the NGO sector and the state over how to enhance cooperation," Liiv says. Writing the document and seeing it adopted by the parliament gave the national NGO community a boost of self-esteem.”<sup>51</sup>*

A Joint Committee was established in 2003 composed of representatives of each ministry and civil society. Among other things, the Committee was assigned to evaluate the degree to which the parties have fulfilled the commitments they undertook in the EKAK, as well as to develop an Implementation Plan for future action. Thus, while created in execution of the EKAK, this body has served as a link between various stages of the adoption and implementation processes.<sup>52</sup> Importantly, the work of the Committee enabled the two sectors to reach a higher level of collaboration.

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<sup>50</sup> Toftisova, R., Implementation of NGO-Government Cooperation Policy Documents: Lessons Learned, IJNL, volume 8, issue 1 (2005) [http://www.icnl.org/knowledge/ijnl/vol8iss1/special\\_2.htm](http://www.icnl.org/knowledge/ijnl/vol8iss1/special_2.htm)

<sup>51</sup> Ruus, K., "Change of mindset underway as Estonian parliament adopts agreement on civil society", <http://www.policy.lv/index.php?id=102558&lang=en>

<sup>52</sup> Toftisova, R., Implementation of NGO-Government Cooperation Policy Documents: Lessons Learned, IJNL, volume 8, issue 1 (2005) [http://www.icnl.org/knowledge/ijnl/vol8iss1/special\\_2.htm](http://www.icnl.org/knowledge/ijnl/vol8iss1/special_2.htm)

In the years following the establishment of the Committee, membership increased to 30, which slowed down the efficiency of the work of the Committee. At the end of 2006, NENO<sup>53</sup> conducted an audit for the joint committee that identified three main problems in implementing EKAK: (1) lack of political interest; (2) poor quality and implementation of activity plans caused by insufficient financial and human resources<sup>54</sup>, and (3) unclear role and responsibilities of both the committee and its members, especially from the side of public sector (the ministries were represented by officials who usually didn't have the power to make decisions in the name of the ministry). In order to solve these problems, NGOs recommended the revision of the principles and membership of the Joint Committee and formation of implementation units in both the public sector and NGOs.<sup>55</sup> During the summer of 2007, the principles and membership of the Committee were revised, and as a result the new committee is smaller in number, but composed of higher level officials. It includes representatives of 10 umbrella organizations, business and trade unions, as well as chancellors (the highest state officials in Estonia) of the ministries of Finance, Social Affairs, Education, Culture, and Economic Affairs, and the deputy-chancellor of the Ministry of Interior. The Minister of Regional Affairs chairs the Committee. In addition, a representative of the Estonian Parliament and two government foundations (Enterprise Estonia and Non-Estonians' Integration Foundation) also sit on this Committee.

Further, in June 2006 the Civic Initiative Support Development Plan, known as KATA in Estonian, was approved. KATA is one of the results of the Estonian Civil Society Development Concept (EKAK), and it serves to standardize the government's approach to nurturing civil society. Essentially it is a document that brings together information about all the activities from the development plans of the various ministries that are connected with civil society. KATA also aims to replace the activity plan for implementing EKAK as of 2007. The new development plan sets five goals for the next three years: (1) to raise the administrative ability of the public sector in communicating with citizens and NGOs/NPOs; (2) to bring into order the system of financing the NGOs/NPOs; (3) to engage NGOs/NPOs consistently and successfully in the decision-making

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<sup>53</sup> [www.ngo.ee](http://www.ngo.ee)

<sup>54</sup> The budget for the Joint Committee was allocated from a supplementary budget of 2-3 million Estonian kroons a year (approx. 130 000-190 000 Euros).

<sup>55</sup> The discussions over the formation of implementation units are still in process. NGOs have stated that they find it inevitable to have such units with stable funding from state budget in both public sector (for example the future department of civil society by Minister of Regional Affairs) and nonprofits (administered by one NGO) to perform day-to-day activities and being responsible in taking EKAK forward.

processes; (4) to raise awareness and develop cooperation between the public, private and the nonprofit sectors and (5) to develop and support civic activism.

NGOs have criticized KATA because they feel that this document does not bring any new ideas. Instead it only reinstates the activities which are already taking place. They feel that KATA failed to provide the qualitative leap in the development of civil society and its cooperation with the Government.<sup>56</sup> For example, as mentioned above, the aim of KATA was to gather information from all ministries' development plans (which are essentially sub-sectoral strategies) on what they are doing in the field of civil society (for example, what does the Ministry for Environment do to support environmental organizations, or the Ministry for Education to support youth and educational NGOs). The main problem however, is that KATA does not perceive civil society as a whole (as EKAK does) but as a sum of specific activities particular to one sector. Therefore, its focus is not on the cross-sectoral issues, e.g., sustainability of NGOs. Further, NGO participation in the development of KATA is also limited, because of the fact that it relies predominantly on the ministries' development plans. To remedy this problem, NGOs are lobbying for the establishment of an implementing unit called the EKAK bureau, which would help the nonprofit sector in taking the ideas and commitments of EKAK forward.<sup>57</sup>

## V. NGO INVOLVEMENT IN POLICY AND DECISION-MAKING PROCESSES

NGO involvement in policy and decision making processes has been understood to include, among others, the possibility and rights for NGOs to have access to information about the process of policy making and law drafting, to be consulted about issues under consideration, and to take active part in defining the process and policy or law in question.<sup>58</sup> Public participation in policy making can be supported through various mechanisms, including: information about the launch of the process, the plans and timelines, sharing early versions of drafts for consultation with NGOs and other stakeholders, including NGOs in working groups which develop the concept of the policy and the draft law from the outset. Participation in decision making processes, on Parliament level, can be realized through allowing NGOs to take

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<sup>56</sup> <http://www.ngo.ee/10217>

<sup>57</sup> As explained by Urmo Kubar, Executive Director, NENO

<sup>58</sup> "Citizens as Partners: Handbook on Information, Consultation and Public Participation in Policy-Making", OECD, 2001, [www.oecd.org](http://www.oecd.org)

part in discussions in Parliamentary Committees or developing reports on the consultation process which would reflect on the input given by NGOs and stakeholders. Opening the processes for participation of NGOs and stakeholders can have many benefits. Primarily, the process can result in fair policies/laws which are reflective of the real needs and are enriched with additional experience and expertise. The participatory process can also facilitate dialogue and consensus on issues, can ensure legitimacy of adopted solutions and guarantee compliance. Participation in the process of developing policies and laws can also increase the feeling of ownership among stakeholders and responsibility for the implementation of the provisions.

The three countries discussed in this paper have worked towards analyzing the challenges posed for successful partnership and participation in policy making and integrating the best practice principles into such processes. Out of all three, only Estonia has adopted a Code of Good Engagement which outlines the basic principles of participation while Croatia has initiated a process for drafting such a code.

- **Hungary**

The issue of NGO participation in policy and decision-making processes in Hungary has been a sensitive issue, as governments have not always been open to the involvement of NGOs in such processes. However, the basic principle to enable NGO participation has existed since the change of the political system embodied in the Constitution. Further, there is no one piece of legislation that would detail NGO involvement in policy and decision making processes. Rather, this issue is addressed in various laws and regulations on national or local level.

There is one relevant provision in the Constitution<sup>59</sup> and also in the Act on Legislation<sup>60</sup>, which establish the broad basis for NGOs to participate primarily in the governmental (as opposed to Parliamentary) process on policy-making and law drafting. Although the Act on Legislation contains some specific provisions on NGO involvement, those have not been

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<sup>59</sup> Section 36 of the Constitution states that while performing its duties, the government shall cooperate with the civil organizations concerned. For the obligatory character of this provisions on policymaking bodies, see the discussion on the Constitutional Court decision in “Civil Organizations in the Legislative Process”, edited by Judit Fridli and Ildi Pasko, a Publication of the Hungarian Civil Liberties Union, Budapest, April 2000 (on file with ECNL)

<sup>60</sup> Art. 20 of Act on Legislation provide that civil organizations shall be involved in drafting those regulations which “pertain to the interests or affect the social conditions which they represent and protect”.

supported by implementing regulations which leaves them open to various interpretations. In 2005, Hungary made a big step towards public participation when the Parliament adopted the Law of Freedom of Electronic Information<sup>61</sup>, which is the most relevant legislation from the access to information and consultation point of view. This law obliges both national and local governmental bodies to make available on the internet data of public interest. Such data, according to the Protection of Personal Data and the Publicity of Data of Public Interest<sup>62</sup> and also in accordance with some decisions of the Constitutional Court, include not only drafts of laws, but also concepts and other preparatory materials. The law details deadlines, methodology and procedures for publishing such information and reacting on it to give feedback to the public. Further, there are some other mechanisms that depend on Ministry level regulations, such as the various Councils (elderly, youth, social etc.) which also have their own procedures for the involvement of NGOs.

There are also some mechanisms which ensure NGO participation in decision making processes on the Parliament level. The Civil Office (mentioned above) maintains a Parliament “lobby list”. NGOs who register on the list are informed and involved in the work of the Parliament. Hungary also adopted a Law on Lobbying in 2006, which caused some controversy. Essentially the law does not apply to NGOs but states that only those entities formally registered under this law may conduct lobbying activities. Therefore, in theory, if the law is interpreted restrictively, it would mean that NGOs are not allowed to lobby in Hungary today. Nevertheless, the practice is different - NGOs are still able to directly contact government officials and MPs about legal reform<sup>63</sup>.

In recent years, NGOs have made successful efforts to influence legislation concerning the sector (e.g. in the case of the National Civil Fund, the Act on Public Interest Volunteering), and more and more results have also been seen in legislation in different fields (such as the environment, disabled rights or women's rights). In addition to cooperation in the legislative process, NGOs and the government have also cooperated with respect to European Union accession issues. The two sectors have also launched partnerships for providing public services (e.g., the Ministries of Health, Social Affairs and Family, Education, and Culture), and they have worked together on processes for determining direct and indirect (delegated) civil representation

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<sup>61</sup> Law XC of 2005

<sup>62</sup> Law 63 of 1992

<sup>63</sup> Companies, on the other hand, need licensed lobbyists to proceed with such activities.

in European Union institutions.<sup>64</sup> Finally, NGOs also are actively involved in working groups on Ministry levels and they sit on the bodies of the National Civil Fund.

- **Estonia**<sup>65</sup>

In Estonia, consultations with NGOs are mentioned in a governmental decree adopted in 1999 which provides that the explanatory letters of draft laws should also include the opinions of NGOs. In 2005, a “*Code of Good Practice on Involvement*”<sup>66</sup> was developed by representatives of the public sector and NGOs (based on the EKAK)<sup>67</sup>, elaborating the key principles that should support active and meaningful participation of NGOs. The Code aims to be applied by administrative agencies in the preparation of at least the following documents: drafts of laws and their amendments; drafts of the regulations and directives of the Government of the Republic; drafts of Ministers’ decrees; documents, concepts, policies, development plans, and programs that are important to the country’s development; drafts of legislation of European Union institutions and other strategic documents (i.e. green and white books); instruction and procedures for rendering public service; conventions and international agreements, as well as the documents that are worked out within their framework, and that influence the society.

Several studies have shown that civil servants have an increased awareness about the need for civil society involvement. A study conducted in 2006 showed that 92% of civil servants find NGO involvement to be necessary for better results in lawmaking.<sup>68</sup> A more recent qualitative study by Tallinn University showed that civil servants who have permanent contacts with NGOs view the cooperation much more positively, while the lack of experience gives rise to unrealistic expectations, disappointment and prejudice.<sup>69</sup>

The involvement of NGOs in consultations of draft laws and their participation in different working groups and steering committees is increasingly common. The infrastructure of

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<sup>64</sup> “The Liaison Office as a Tool for Successful NGO-Government Cooperation: An Overview of the Central and Eastern European and Baltic Countries’ Experiences” by Maria Gerasimova (<http://www.icnl.org/knowledge/ijnl/index.htm>)

<sup>65</sup> This section of the paper has been developed with significant contribution by Urmo Kubar, Executive Director of NENO.

<sup>66</sup> [www.ngo.ee/11583](http://www.ngo.ee/11583)

<sup>67</sup> NGOs expect the Code to be adopted by the Government in October 2007, and thus become a legally binding document.

<sup>68</sup> <http://www.riigikantselei.ee/?id=6473>

<sup>69</sup> [www.ngo.ee/uuringud](http://www.ngo.ee/uuringud)

NGOs is well established in Estonia and there are well known umbrella organizations for different sectors in addition to NENO which represents the cross-sectoral advocacy body on behalf of nonprofit sector.

Although NGO participation and consultation is improving, there are still many challenges on the side of both the public and nonprofit sector. The challenges on the side of the public sector are: (1) insufficient knowledge about potential partners (therefore the consultations are often limited for stronger and more known umbrella organizations instead of wider involvement of other types of groups or organizations); (2) insufficient knowledge about the processes of involvement, which makes the consultation process often formal without any real effort to ensure meaningful input from NGOs; (3) poor quality of drafts laws (since they are often very long and complicated texts, that NGOs are not capable to deal with); (4) poor planning of time and short deadlines (The time given to organizations for sending their feedback to draft laws is usually 2-3 weeks, which is often not sufficient when organizations want to gather their members' or constituencies' options first, especially if they are not informed in advance about forthcoming consultation processes. Thus NGOs are often involved only in consultations about ready-made draft laws instead of involving them in the stages of needs assessment and development of the draft); (5) poor capacity in giving feedback to organizations who have contributed to the law-making processes with their proposals.

On the other side, NGOs face the following challenges (1) lack of resources (both human and financial) to make meaningful contributions to policymaking; (2) lack of competence to comment on legal texts; and (3) lack of ability to consult and involve their members and target groups when they formulate the organization's position towards a policy or law. The solutions to these problems are being sought through trainings (e.g., NENO's annual summer school in 2007 concentrated on involvement and participation issues, bringing together NGOs and officials to discuss and exchange experiences on how to implement public involvement procedures to achieve the best results) and better funding mechanisms for NGOs (e.g., operational costs for advocacy organizations through the future Endowment).

A further interesting initiative is the new participation portal [www.osale.ee](http://www.osale.ee) ("participate" in Estonian), which was launched by the State Chancellery in summer of 2007. The portal allows civil society groups and individuals to post comments about the ongoing consultation processes, while the ministries can provide the public with draft laws, background materials as well as post

polls. In the future, the users will also get the opportunity to initiate legislation and comment on the needs and shortcomings in the society that can currently be done through another portal, “Today I decide”<sup>70</sup>. In the first few months the input from public sector has been low, while the feedback from NGOs has been moderate. Nevertheless, the portal has good potential to facilitate the consultation processes.

#### ▪ Croatia

In Croatia<sup>71</sup>, NGO involvement in policy-making and decision making process is still undergoing a initial phase of developing tools and mechanisms for more systematic engagement. Currently, there are no special regulations in Croatia that would guarantee NGO participation at any level of government or parliamentary decision making. Government's Rules of Procedure prescribe that ministries and other governmental bodies should, when appropriate, forward proposals and opinions to (professional) associations which deal with the issue in the proposal or opinion.<sup>72</sup> However, this provision is not being fully respected and there are no statistics to confirm the efficiency of such an approach. The Parliament's Rules of Procedure provide that “external members of the Parliament's committees“ who are nominated from various expert groups, universities and associations, can give opinions on draft proposals without the voting right. However, only 11 out of 25 different Parliamentary committees can use the option of nominating external members and the procedure of appointment is not transparent.

Due to the lack of systematic involvement of NGOs in the decision-making processes, representatives of NGOs and Government dedicated a special chapter on participation of NGOs in the newly adopted “*National Strategy for Creating Supportive Environment for the Development of Civil Society*”.<sup>73</sup> The Strategy indicates the need for the development of unified standards and a mechanism at the national and local level to provide NGOs the opportunity to participate in the drafting, implementation and evaluation of public policies and decisions. Accordingly, the Council for Civil Society Development and Government’s Office for NGOs

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<sup>70</sup> or TOM in Estonian, [www.eesti.ee/tom](http://www.eesti.ee/tom)

<sup>71</sup> This section of the paper was written with significant contribution by Vanja Skoric (Legal Advisor, GONG).

<sup>72</sup> Article 27 para 5 of Government's Rules of Procedure, Official Gazette 6/02, 91/03 and 58/04.

<sup>73</sup> Chapter 4 of the National Strategy for Crating Inciting Environment for the Development of Civil Society.

have formed a working group tasked with drafting several possible mechanisms and tools for NGO consultations, such as a Code for NGO Consultations.

Most of the current practice of NGO involvement includes *ad hoc* reactions through the media pressure, advocacy coalitions and direct lobbying after the certain draft proposal (policy or law) has been published. The consequences of this approach are firstly, a significantly low level of access to information about the drafting process (usually conducted in the national or local Government's body) followed by the late publication of the drafts, and secondly, the need for a quick and targeted reaction of NGOs, which does not allow for elaborate comparative analysis or public discussions. Some NGOs have already established a database of comparative research relating to their main focus of interest and are able to react quickly and produce policy analysis in very short time.

In addition, the process of decision-making, especially on the parliamentary level, is still based on a daily schedule which is constantly subject to change. There is no systematic approach to setting the agenda and thus NGOs face limited possibility and time to prepare meaningfully for the discussions. Moreover, over 80% of legislative drafts are being adopted under so-called "urgent procedures", which in theory should be used only in limited situations. This practice limits the ability of NGOs to participate in decision-making processes.<sup>74</sup>

A more systematic approach to NGO involvement is rare but successful on both the national and local levels. Usually this includes forming a working group for a draft law or policy; the working group is initiated by a governmental body but also includes members of NGOs.<sup>75</sup> Frequent meetings and open discussion and inputs of NGO members helped bridge the gap between drafting and implementation of certain laws and policies. However, these examples depend on the personal motives and openness of each governmental office. The main body established by the Government that represents NGOs is the Council for Civil Society Development (described above). In addition to the Council, 53 NGO representatives and experts from the academic sector are involved in the negotiations of Croatian accession to the European Union. Moreover, the Government initiated the establishment of a Joint Consultation's

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<sup>74</sup> Article 159 of Parliamentary Rules of Procedure. According to the official web site of the Parliament, [www.sabor.hr](http://www.sabor.hr) and their Information and Documentation Service, in the period January 15 – July 13 2007, a total of 115 laws have been adopted, 81 of them according to the „urgent procedure“.

<sup>75</sup> Law on Voluntarism, adopted in 2007, is a good example of including NGOs in draft law working group. Example on local level includes working group for adopting City Program for Youth in the town of Zadar.

Committee between European Economic and Social Council and Croatia, with two participants nominated by the NGOs participating in its work. Finally, in late 2007, the Government initiated the establishment of the National Council for Promotion of Voluntarism which will include representatives of NGOs.

## **CONCLUSION**

Cooperation between governments and NGOs in the three countries analyzed in this paper has taken many creative forms. In all three countries, the governments have adopted the basic framework laws which would enable NGOs to operate and sustain their activities. With the exception of the Croatian Law on Foundations and Funds, all of them reflect good practice principles. The tax laws also follow this trend and all three countries have introduced exemptions on income tax and tax benefits for donors which would motivate NGOs to generate their own income and turn to their local communities to gain financial support for their activities. In addition, the volunteering laws in Hungary and Croatia, and the development plan in Estonia aim to create a supportive environment for citizen engagement in the activities of NGOs and social life.

Governments and NGOs have also been innovative in developing mechanisms to improve the financial viability of the sector, especially to address the most common challenge of lack of funding for NGOs' institutional costs. The models described in this paper show that there are many creative ways in which governments and NGOs can try to address this problem if they make an assessment of the local needs and opportunities. Each model depends on a distinct source of funding (lotteries, percentage mechanism).

Importantly, the state bodies and NGOs have been able to explore different avenues to increase dialogue and cooperation. They have set up central offices at governmental and parliamentary levels, which are responsible for liaising with NGOs, soliciting their input, working jointly on initiatives of common interest and ensuring their participation in the policy and decision-making processes. The establishment of different departments at ministries tasked to liaise with NGOs ensures that the cooperation is not limited to only one public body but is decentralized and allows for direct partnerships on issues which are close to the parties involved. The programs for cooperation or strategies for support of the development of the sector are important as they embrace and endorse principles and commitments which guide the cooperation and ensure that the support is targeting real needs. The highly participatory processes in the development of these documents are perhaps even more significant as they have brought the

public bodies, state authorities and NGOs closer together, have facilitated consensus-building on the priority issues and have created ownership and trust that increase the chances of successful implementation. Finally, the initiatives to translate the principles and rules of NGO involvement in policy- and decision-making processes into codes or regulations have elevated the importance of NGO participation and ensured that all public authorities and NGOs are familiar with the benefits of such involvement and also the obligations and opportunities that arise from it.

The Croatian, Estonian and Hungarian models of cooperation have faced several implementation challenges. The experiences gained through these innovative initiatives have served and can continue to serve as valuable examples and inspiration to other countries that are considering adopting similar approaches in their local environments.

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