



Feasibility Study on a Legacy Advocacy Mechanism in Ukraine

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Acronyms

ABF	America for Bulgaria Foundation
BAPF	Baltic American Partnership Fund
CEE	Central and Eastern Europe
CEE Trust	Trust for Civil Society in Central and Eastern Europe
CSO	Civil Society Organization
CSOSI	Civil Society Organization Sustainability Index
GDA	Global Development Alliance
NIT	Nations in Transit
OCA	Organizational Capacity Assessment (PACT version)
OPI	Organizational Performance Index (PACT)
OSCE	Organization for Security and Cooperation in Europe
OSI	Open Society Institute
PAFF	Polish American Freedom Foundation
RPR	Reanimation Package of Reforms (coalition)
SEE	Southeast Europe
SIDA	Swedish Development Cooperation Agency
UNDP	United Nations Development Programme
UNITER	Ukraine National Initiatives to Enhance Reforms

Executive Summary

This feasibility study on a legacy advocacy mechanism was undertaken to determine the suitability of key Ukrainian civil society actors to further support advocacy efforts to foster reform in Ukraine after the PACT UNITER program ends in September 2016. The study looked at both current talent and context and at experiences from Central and Eastern European legacy efforts in order to propose a road map for how to best support a broad array of advocacy efforts in Ukraine.

The most talented of civil society actors have increasingly been able to influence the policy reform process of their country; however, a mini-assessment that looked at ‘competency and passion’ considerations for the most promising actors found no actor that is both currently *interested* and *suitable* to be considered a serious candidate for the legacy mechanism.

Furthermore, the study found that design of such a mechanism is not appropriate given the current civil society development situation and the political context in Ukraine. The dramatic happenings in the past years since Maidan are encouraging for further sector development and cooperation and for the sector to be better engaged in the reform process. Yet these processes are still fragile and in need of time to further evolve and further international presence to support this development.

Short-term Mechanism Considerations

Accordingly, the study recommends that there is still need for a short-term international presence/mechanism to be in place to further the development of civil society; this could be approximately for 3 years. This international role should emphasize how to strengthen current (and evolving) actors to build up advocacy capacity for future legacy efforts. Specifically such a mechanism should:

- Provide financial support to advocacy opportunities
- Provide targeted capacity assistance as visionary
- Serve as a facilitator and convener of multi-level and multi-actor initiatives

Strategically, short-term programming should:

Encourage and make available broad thematic technical assistance for ANY reform area: The priority reform areas of anti-corruption, rule of law, and public administration reform are certainly critical. At the same time, progress in addressing complex issues in health, agriculture, education, etc. can and should be part of further international emphasis. This would assist to address public concerns about concrete effects of the reform process and provide a wide set of organizations access to funding and technical assistance for policy engagement in various issue areas.

Emphasize the need for advocacy and analytical products to have a consultation process/system: Consultative processes are certainly in place between government and expert groups and to some extent expert group/CSOs and a broader set of stakeholders. Emphasis on making this two tier consultation process a normal part of addressing policy issues should be part of continuing efforts.

Emphasize advocacy processes where analytic products have a quality management system: Several of the actors are putting in place ways to improve the quality control of analytical products. International efforts should focus on working with them to achieve functioning systems as well as making peer review and related quality management processes part of the culture of policy research infused advocacy.

Emphasize regional level policy processes. This emphasis should try to ensure that 1) regional and local stakeholders are part of national level consultation processes and that 2) reform processes on the local level further encourage and develop consultation processes for local-local stakeholder engagement.

Make available capacity building enhancements for multiple levels of organizations/initiatives. Domestic organizations have gained the skills to provide capacity development to a variety of organizations. Further funding for such efforts should be considered. For those that are most developed, assistance should focus on ways that 1) the mechanism can introduce new ideas to the sector and 2) as a facilitator for bringing together various actors and coalitions together. Specifically this should include ways to ensure integrated stakeholder reform efforts that include multiple government, civil society, donor and regional levels.

Mid-term Mechanism Considerations

Considerations for what may be appropriate for a mid-term support mechanism in Ukraine can be informed by lessons learned from legacy mechanism experience in Central and Southeastern Europe. Analysis of the three main types of mechanisms used suggests some of the following key lessons:

- Having no Legacy Mechanism such as in Romania or Croatia can hamper the ability of advocacy and watchdog organizations to function at critical time of political reform
- Having a Global Development Alliance (GDA) Mechanism (country or regionally focused) like the CEE Trust or the Black Sea Trust requires an explicit focus on advocacy-related issues and purposeful grant making to achieve optimal outcomes.
- Having a combination of legacy organizations/institutions mechanism benefit from including international components/inputs. At the same time, they require careful consideration of legacy spin-offs.

Overall the CEE and SEE experiences suggest that some type of mechanism will likely be necessary for Ukraine. Even assuming that Ukraine makes great strides with its reform progress in the short term, it is unlikely that the country will be in the situation where it has managed to consolidate most levels of its democratic governance. Even if it did manage to reach such a milestone, having specific assistance and funding support for organizations focusing on advocacy issues was considered necessary in most CEE countries. Since the EU Accession possibilities and funding efforts are not similarly possible for Ukraine as they have been for other CEE and SEE countries, the funding coping mechanisms that advocacy

related organizations have somehow managed in Romania and Croatia would be less of an option in Ukraine. Therefore whether it is a new mechanism or combination mechanism based on competencies of different actors, a specifically focused advocacy mechanism is recommended.

Finds from the review suggests that structure is ‘to be determined,’ but emphasize that mechanism must be ‘fit for purpose’ and have clearly articulated visions for what the mechanism intends to achieve with structures and programming which match these aims. It is recommended that any future mechanism would:

Include an international dimension and GDA options: Based on near-term experience, a new mechanism or combination of key actors should include an international dimension and include GDA options. Even if individual funding of several talented actors would be sufficient to provide the sector with its platform and facilitating functions, the role of international actors would still likely be needed. This role as part of boards and or part of staff would ensure greater stability of the mechanism and its ability to cultivate the respect and cooperation it needs to successfully function domestically. Funding options that bring together GDA partners would further fortify this

Design project and institutional programming options to have broad advocacy focus to include multiple actors and capacities: Programmatically, if the envisioned objective is to be able to have a broad advocacy focus, this needs to be articulated and strategized for efforts that are able to support the process from ‘sourcing to selling’ of advocacy efforts. The current situation with various levels of capacity suggests that there will continue to be a need in three years’ time to build up some capacities as well as to cultivate an ‘open door policy’ for actors to do advocacy on a wide variety of policy issues that might not currently top agendas. Therefore the mechanism approach would need to include institutional and project related funding; to include national as well as regional emphasis; and to include innovative ways to assist the evolving civic and volunteer initiatives.

Design the mechanism to have a creative and developmental grant making approach: Ensure through management and strategic visioning of the mechanism that the mechanism has directionality towards advocacy objectives. Lessons from the other mechanisms suggest that there is a very fine line between being broad and inclusive and being able to have flexible directionality.

Ensure that the capacity development needs of the mechanism are systematically supported from the beginning: Depending on the structure and actors of the mechanism, a clear strategy for either further developing or creating the necessary capacities inside the mechanism needs to be articulated. This is to ensure that the mechanism has the time and ability to achieve a capacity level to carry out its full obligations (from developmental grant making to fundraising).

Design the mechanism to have a phase out or sustainability strategy for its own cycle of engagement: A key component of this would be to articulate the role of the mechanism in relation to other CSO actors and to ensure that the mechanism should remain a grant-giving foundation/fund and refrain from spinning off into an ‘implementing foundation.’

Feasibility Study Purpose and Focus

PACT has been implementing its Ukraine National Initiative to Enhance Reforms (UNITER) Strengthening Civil Society program in Ukraine since 2008. Within this program, PACT has focused on increasing citizen support for and participation in civil society activities with specific objectives to support broad based monitoring and advocacy campaigns, to expand civil society organization (CSO) constituencies, and to improve CSO communication efforts. These efforts all work towards identifying and cultivating key civil society actors that can continue these efforts beyond the UNITER program to further the democratic reform process in Ukraine.

The PACT program is scheduled to end by September 2016. As part of its sustainability review efforts PACT has been tasked with designing a Sustainability Roadmap to assess the feasibility of considering legacy mechanism options to support domestic advocacy coordination and grant making beyond the UNITER program. Specifically, the researcher was asked to look into existing local mechanisms for support of advocacy and suggest ways forward in relation to this effort. The specific objectives include:

- Assess strengths and weaknesses of existing Ukrainian organizations and coalitions for playing the role of both horizontal coordination and direct sub-granting;
- Review international lessons of sustainability mechanisms, especially those of the Central European countries, which went through political and economic transition, and have graduated from the international donors funding;
- Assess the feasibility of establishing a new entity that would encourage, build capacity of, and sponsor important advocacy and monitoring initiatives in the country;
- Provide recommendations to Pact and USAID for developing the Sustainability Roadmap.

Methodology and Limitations

Methods of the Research

The methodology for this feasibility study primarily relied on qualitative methods, using a combination of desk review, key informant interviews, and observation. As preparation for the field visit, the researcher reviewed key USAID and donor reports, internal and external evaluations, and related academic and practitioner evaluation literature that focused on models of closeout strategies and mechanisms of supporting further civil society development in Central and Eastern Europe (CEE) and Southeast Europe (SEE). The researcher also reviewed a selection of PACT UNITER program documents as well as PACT capacity development related methodologies (the Organizational Capacity Assessment-OCA and Organizational Performance Index-OPI).

Based on this background and in consultation with PACT and USAID,

Feasibility study assesses the:

Relative suitability of key NGO and initiative actors to oversee/cooperate in civil society advocacy support mechanism

Type of mechanism that might be most conducive to the Ukrainian context

the researcher outlined a two-prong approach to the feasibility study. The first component of this study was to assess the current potential organizations or actors in Ukraine that could serve as an organizing mechanism for future advocacy and related activities.

The researcher designed a framework for this assessment based on literature lessons learned and from PACT Organizational Capacity Assessment (OCA) indicators. This framework focuses on 8 areas covering ‘capacity and visioning’ attributes of the entities, which would be relevant for the envisioned grant making and advocacy coordination tasks. The researcher designed a semi-structured interview guide corresponding to the framework and used this as the basis of interviews with each different actors.¹ This interview served as the main tool for assessing relative capacities and visioning abilities of each actor.

In a review of each of the interview write-ups, the researcher used a simple coding system to record whether attributes had clear evidence present (2 points); partial or mixed evidence present (1 point); and no evidence present (0 points). It should be noted that actors were not compared with each other, but rather against the specific attributes. Attributes were not prioritized or weighted rather considered at least for the purposes of this assessment as being equally important.

For the second area of the investigation, the researcher reviewed the literature and consulted with PACT to better understand contextual considerations for a potential advocacy mechanism. Based on these, she designed an interview guide for discussions with key external stakeholders; the interview guide broadly looked at the contextual issues for considering the most suitable follow-on advocacy support mechanism. External stakeholders included other civil society leaders involved in advocacy and policy reform issues – particularly with the Reanimation Reform Package (RPR) coalition, key donors engaged in supporting policy reform processes, and government officials engaged with civil society in the reform process. These interviews focused on getting input on how the advocacy and reform efforts were progressing, performance of the organizations engaged in these processes as well as their own plans and ideas on how to design a mid-term mechanism that would support civil society in pushing the reform process.

The researcher was in Kyiv from November 9-20, 2015 meeting formally with seventeen (17) different organizations and actors, a number with repeat meetings.² The researcher also participated in several events being held while in Kyiv including a pre-dinner anti-corruption conference meeting and two conferences where a number of informal discussions and meetings were held with civil society actors and donors from Ukraine and the region.³

The analysis, accordingly, is based on the initial review of documents, field interview findings, observation and attendance at the events, and additional Ukraine specific analysis and resources received while in Ukraine. These are indicated in a reference section at the end of the report.

¹ Please *Appendix A* for a look at the semi-structured interview guides and for the assessment framework.

² Please see *Appendix B* for a list of meetings held.

³ These include: the Pre-conference Dinner for the Anti-Corruption Conference on November 15, 2015, the Anti-corruption Conference on November 16, 2015, and the Civil Society Development Forum 2015 on November 19, 2015. Attendance at these three events was focused on better understanding contextual context issues as well as for the opportunity to observe and engage with key civil society actors and donors more informally.

Limitations of the Research

This research constitutes a first step in considering which actor(s) is possible to work with for developing a legacy mechanism, when, and in which ways such mechanism would be suitable for the domestic context. It is not a comprehensive overview of civil society in Ukraine or even of civil society advocacy and policy process mapping; it relies on recent donor supported reports focused on these issues in Ukraine as a background for its further probing and analysis. Nor does it provide a comprehensive look at USAID legacy mechanisms. Rather it examines a portion of USAID efforts in CEE and SEE and based on these gleans key lessons learned for applying to the Ukraine case.

The research also does not directly examine the relative quality of think tank and policy research institute analytical products that go into the advocacy efforts. The researcher does review some locally produced policy documents as part of understanding thematic issues, and discussions of relative quality were part of most interviews. These contribute to forming the researcher's general impression of policy document quality and utility; however, this research does not carry out a content analysis review of documents or claim to provide an assessment of civil society produced analytical products.

Finally, the look at the actors should be considered a snapshot or mini-assessment. Each of the assessments is based on in-depth interviews with key leaders of the organizations. In most cases additional feedback on the actor and or programming documents supplemented the meetings. The purpose was not to do a formal in-depth evaluation of each actor; but rather it was to look in a systematic way at each and assesses its current and potential abilities and vision to be involved with a future advocacy mechanism.

Assumptions and Approaches

This feasibility study takes as a starting point that civil society-led advocacy efforts need to be grounded by expertise and stakeholder consultation in design, presentation, and monitoring of reform process in order to provide best possibilities of reaching policy reform objectives. Therefore advocacy is broadly defined and includes activities focused on influencing decisions of public policy⁴ as well as monitoring these policy implementation processes. This broad definition is considered when assessing advocacy attributes of the actors as well as the current contextual situation. It is also the basis for considering any potential advocacy support mechanism.

Namely any future mechanism would require attributes to 'source and sell' expert and activist inputs into the policy process and to monitor these. The ideal process would emphasize building support amongst civil society, public and governments for specific reform outcomes. The study therefore assumes that any future interventions would consider this 'comprehensive approach' in its grant making in a way that links the various parts and actors of an advocacy process.

The feasibility study proceeds as follows. First the study presents key findings of the mini-assessments for each of the actors. This is followed by a look at general traits and trends. The next section of the study looks at political, general civil society, and donor contextual considerations in Ukraine. Based on

⁴ One definition that is useful for describing this is: "Policy advocacy is the process of negotiating and mediating a dialogue through which influential networks, opinion leaders, and ultimately, decision makers take ownership of your ideas, evidence, and proposals, and subsequently act upon them" Young E., and Quinn, L., 2012, p. 26).

conclusions from these two sections, the study puts forward recommendations for short-term planning. The final section examines lessons learned from experiences with legacy mechanisms in CEE and SEE. Based on this, it considers how a potential advocacy mechanism for the mid-term could be designed and how it would function for Ukraine.

Section I: Base Assets Key Findings

This section provides key findings from the mini-assessments undertaken for the organizations, foundations or coalitions considered to be current candidates for leading or being part of the legacy mechanism. It looks at each actor, highlighting strengths as well as weaknesses. It concludes by examining shared traits and trends and what this suggests about mechanism options.

Each of the organizations, foundations, and coalition by virtue of being on the list for a mini-assessment already has a certain level of capacity and track record in re-granting and or advocacy. PACT and other donors have worked with a number of these specifically on developing such capacity levels⁵ the assessment, therefore, focuses attention on the competency attributes most associated with an anticipated legacy mechanism for re-granting. It also focuses on the visioning or passion attributes each demonstrates, something such an actor would need for fostering and furthering the broad set of advocacy efforts that are currently supported by UNITER.⁶

Overall, there are not significant numerical differences in the actors according to the coding system. Few organizations scored the full 16 amount of points possible; having evidence of attributes in all eight areas covering competencies and passions and accordingly can be considered the ‘front runners.’

All actors have a score between 12 and 16 points. Per the coding system, this means that most had clear or partial evidence present of most of the eight areas to be considered a potential candidate. For example, all have a record in grant making. All actors generally have good relations and evidence of networking with international actors. All the actors have a similar view of how to prioritize reforms around rule of law and anti-corruptions issues and then a variety of other reform areas.

Yet as individual descriptions below illustrate, none of the actors alone is a clear choice as being a home for such a mechanism. Why? For the two front-runners, the levels of interest to take on this challenge are not present or currently present. For the other actors, the areas where attribute evidence is mixed or missing raises concerns about each actor’s suitability for the task.

Base Assets Framework

Competency Attributes

1. Organizational systems
2. Leadership and staffing
3. Governance and health of the organization
4. Visioning abilities

Passion Attributes

5. Innovation
6. Values
7. Domestic networking and Advocacy
8. International networking and advocacy

⁵ Please see the most recent UNITER Annual Performance Report (1 October 2014 – 30 September 2015) for details of some of these efforts.

⁶ This full range of advocacy services, while perhaps an ideal, nonetheless was the departure point for assessing each actor given that UNITER currently is involved in all levels of this process.

Shared Traits and Trends

These actor specific assessments if taken together also suggest a number of general traits and themes that should be highlighted.

Firstly the assessment suggests that actors primarily either do capacity development well or linking and advocacy well. Perhaps having only one actor to do so-called *comprehensive grant making* which would serve to support evidence based advocacy efforts is not realistic. However even if considering a combination of actors assessed in this study, the selection process is still not so straightforward.

Namely almost all of the organizations are undergoing strategic evolution as organizations or initiatives. They are very much in the process of growing and changing themselves. They need time to see what they will become. They also need time to see how what they become will interact and affect the civil society and advocacy efforts they are attempting to address.

If an organization has a clear vision for its own role and development, it is more likely to have the attributes.

Strategic evolution is also important in relation to content development. Namely, some organizations speak of finding ways to better integrate policy research analytical products into their efforts. Specifically with this they point to the need to put in place systems for managing the quality of the products – whether a peer review system or other. They also describe the need to develop product proto-types. For example one

Ukrainian organization wants to experiment with developing what a white paper or green paper or short briefing paper should look like. They and others realize that their advocacy efforts need to be more grounded in evidence-based claims and that this needs to be more accessible and ‘digestible’ to a wider audience.

Whether analytical capacities are housed with the actors is a question of strategy, but most see the need to further build strategic partnerships with analytical experts to increase their use of products in their advocacy efforts. For example, one organization was quite clear that they primarily wish to work with expert individuals that periodically cooperate with the organization rather than cooperation with specific policy research organizations, but this process is still in the planning. Another NGO, in a slightly different development of analytical efforts sees the need to have in-house capacities to do more analytical work on areas of capacity development. A local foundation supports analytical work, but mostly has not been directly part of quality assurance processes. Other actors have their own analytical products related to specific topics they work on, but are not positioned to provide or oversee a mechanism for encouraging more analysis in advocacy efforts.

Evolution is also important in relation to further advocacy development in general. The actors assessed have undertaken some innovative ways to do advocacy. Many consider the CHESNO efforts as a model for others in how to garner attention and support for an issue area. Yet advocacy per se remains an area where CSOs need to have more concentration, particularly for getting beyond engaging with the policy elite and engaging with the wider public.

This will be increasingly important as the different actors take on more efforts to monitor government reform implementation efforts. Of the many laws passed due to the efforts of RPR and others, few have

yet been tested in implementation. The actors accessed here as well as others recognize the need to emphasize more monitoring and to report on this monitoring process in a clear and analytical way. Most still, however, (partially due to the need until now for emphasis on legislative design) have not made this a significant part of the efforts. Nor do they have detailed strategies for how to address monitoring tasks as part of a long-term engagement with the government. As one informant described, “These groups are good at barking, but now they have to work with government in a different ways to make the reforms work.”

Finally, each of the organizations is experimenting with how to better address the local/regional-national level civil society gap. This gap is considered to be in two areas. First most acknowledge the need to find better ways to include regional/local voices/CSOs into national level advocacy planning. Most also see the need to strengthen the local-local abilities of civil society to engage with their local governments in a similar way that national level CSOs and actors are engaging: to contribute, control, and push reform issues important to their constituencies and the general public. Each has experimented with supporting initiatives and civil society organization involvement with local government and national government structures. However, finding the formula for encouraging engagement and strengthening control and monitoring mechanisms is very much a work in progress for all of the actors.

Therefore the mini-assessment returns to its initial set of headlines: there are promising candidates, but there are no clear candidates that are identified for taking on these efforts from the fall of 2016 as one actor or as a combination of actors. If considering how to combine complimentary expertise areas of the actors, which would combine advocacy and grant making, there are several serious options to consider. For example, pairing a strong advocacy component platform with the organizational systems and management of an another actor might be possible. Regardless, it is necessary to see what each of these organizations themselves develops towards. Based on this, a more reasoned examination of matchmaking or solo actor mechanism efforts could be considered.

Section II: Current Contextual Key Findings

The previous section examined key attributes of Ukrainian organizations and coalitions to determine their fit for being considered as the home of or as part of an advocacy legacy mechanism. In addition to the specific strengths and shortcomings identified for each of the actors, a key finding was that many of the actors are in a state of transition and evolution.

These transitions are indicative of changes occurring in the entire civil society sector. Like individual organizations, the sector as a whole has experienced significant development. However as the following section outlines, this development is not at the phase yet for considering legacy planning. Rather the current developments suggest a short to mid-term strategy is necessary before further long-term planning.

US and other donor support in Ukraine for civil society has been present for more than two decades. During this time, civil society development has had stops and starts, but if considering the most recent USAID Civil Society Organization Sustainability Index (CSOSI) with a score of 3.3 (towards Sustainability Evolving) or the Freedom House *Nations in Transit* (NIT) matrices (2.75 (just) in the

Consolidated Democracy category),⁷ the main trends show a slow improvement followed by a general uptick in dynamism after the Orange Revolution in 2004. This was followed again by years of adjustment, growth, and further development that were illustrated in the efforts during and following the Euromaidan Protests.

The numbers therefore when viewing the strength of civil society in 2015 suggest a context where civil society has slowly but surely managed to develop, come into its own with certain vibrancy, and have an effect on the larger reform process in Ukraine.

CSO Sector Attributes

How the civil society has developed is almost as important as the results to date. Namely one of the key challenges identified before and as an impetus for the UNITER program was the need for greater civil society cooperation and advocacy efforts in order to have an effect on government actions and performance. Attention to supporting cooperation, coalitions, and advocacy efforts has begun to have some results. The post-Maidan coalition that formed together to be the RPR is the key example of this. The current sets of coalitions and platforms that have developed are based on years of efforts to reach this point – something many point out is not yet firmly planted.⁸ Cooperation mechanisms have developed, but their use depends on interests and will of key actors, something that is ever changing and still often requiring international facilitation.⁹ In short, without the international presence for legitimacy and facilitation on all sides, the level of cooperation reached is not likely to be sustainable.

Competition among civil society organizations is present – whether for donor funds or access – and Ukraine is no different from many other places. What appears somewhat unique in Ukraine is the particular level of competitiveness present among a cadre of very experienced advocacy and policy research groups which makes them formidable allies or opponents (if they choose).

Some appear to realize that the reform process is more important than rivalries; others are still in the process of carving out their respective spaces in civil society and view the process in zero sum terms. The fact that coalitions or platforms of platforms have managed to form and show some results demonstrates the ability of established actors and organizations to cooperate effectively. The fact that these coalitions and platforms continue to be break up, spin off, and require international facilitators to ‘keep the peace’ suggests that the entire effort remains fragile.

Trust in CSOs and interest in civic initiatives is also a key strength of civil society. Volunteer efforts particularly appear to have shifted public attitudes and increased confidence in CSOs to represent their needs.¹⁰ As one donor described: “We are perhaps at the highest point of civic activism in modern

⁷ Please see the 2014 CSOSI for Ukraine and 2015 NIT Ukraine reports found at https://www.usaid.gov/sites/default/files/documents/1863/EuropeEurasia_FY2014_CSOSI_Report.pdf and https://freedomhouse.org/sites/default/files/FH_NIT2015_06.06.15_FINAL.pdf [Accessed November 30, 2015]

⁸ As one informant explained: “We (donors) have co-produced this current situation, and we need to continue to be part of the production process. Whether it is PACT or any other institution, such a presence is driving things forward and needs to continue to be present.”

⁹ See the 2014 external performance evaluation of the UNITER Program for details of some of these facilitation efforts (Tisch, et. al, 2014).

¹⁰ According to a study done by the Razumkov Centre, 25.3% of citizens in 2014 opt for NGOs to represent their interests in social processes, compared with 13.8% in 2007 (OSCE, Handout November 6, 2015)

history.” At the same time, citizens tend to still have a poor understanding of reform issues and processes – something that civil society in principle should be focusing on addressing.¹¹

While trust in the sector is high, the organizational playing field is still somewhat shallow. This is due to the fact that some from civil society have gone into the government, and due to the fact that there is uneven capacity in different areas of the sector and reform issues. For example, mixed levels of capacity are illustrated when comparing the relative ‘effectiveness’ of the different RPR working groups. Those working groups that tend to be associated with solid analytical products and strategies are linked with more developed organizations and issue areas like anti-corruption and vice versa. Few described a level of capacity and organization present for addressing important education or health care reform issues. The lack of regional voices in the RPR also reflects the general weakness of organizational capacities once leaving Kyiv and major regional cities.

Many donors and practitioners share the sense that this is an historic moment. At the same time, most also point out that historical moments tend to ‘come and go’ in Ukraine. Reflecting on lessons learned from the 2004 Orange Revolution, they urge caution in considering that this is the defining moment of political change in Ukraine. Rather as one practitioner noted, “Every 24 months are critical in Ukraine. This is our reality the last 15 years so we need to be careful not to rush with programming.”

Many donor timelines generally reflect this cautious view and are not planning to shift strategies in the near term. SIDA currently has programming in place through 2020. The EU Delegation has programming and funding focused on the next four to five years. Overall, donor attitudes suggest that the consideration of legacy mechanisms now is not a timely exercise.

Whether the next two years will result in civil society and government officials being able to make certain base reforms ‘irreversible’ remains a question.¹² It is clear at this point that many reform processes are underway and that many inside and outside the government and outside of Ukraine are championing the reform agenda. As an illustration, efforts to push forward an anti-corruption agenda and system of agencies and institutions to tackle corruption are clearly beyond declarative stages, but still not truly in the implementation stage. Similarly, efforts to reform the complex rule of law system have had some successes even while the larger systematic problems remain.

What is also clear is that this reform process is likely to be one that has successes and failures and stops and starts. Notwithstanding the strong role played by civil society, the government is likely to revert to some of its well-known less democratic practices. Evidence of political leadership’s interest and good will to carry out these reforms fully is already ebbing. Civil society as well as donor country official statements at the November Anti-corruption conference in Kyiv¹³ highlighted the need to have concrete prosecution and progress on anti-corruption in order for reforms to be considered credible.

CSO Environment and Cooperation with Government

¹¹ For example, the February 16, 2015 Memo from PACT to RPR Council and Interested Parties specifically notes the need to focus on wider public understanding of the reform process.

¹² 2015 NIT performance (covering calendar year 2014) placed Ukraine in the ‘Transitional Government or Hybrid Regime’ category, which was an improved score from earlier years, but still representing a system that is highly prone to changes in either direction. Please see: <https://freedomhouse.org/report/nations-transit/2015/ukraine> [Accessed December 3, 2015]

¹³ Speakers include the U.S. Ambassador to Ukraine, Geoffrey R. Pyatt.

At the same time, it should be noted that the environment for civil society to push for reforms has become increasingly favorable (post Maidan), mostly due to the efforts of civil society itself. It is unlikely that a reversal of major advancements would be possible. CSO registration is now easier, and the taxation process more favorable.¹⁴ Still there are unresolved issues particularly related to the volunteer initiatives, which are vulnerable to changes in political winds, and organizations with fewer capacities already have a challenging time to address all accounting and related legal requirements.

The environment for civil society engagement *WITH* government has a new start. Civil society has become successful at pointing out what is wrong with government performance, but they have had less experience with using their skills for being constructive in engaging with the government to address identified problems.

Civil society technical inputs into government decision-making are happening. RPR and a few others have succeeded in successfully lobbying and consulting with members of parliament and government officials. Overall, though, government consultation processes with civil society actors are untested. Distrust on both sides combined with lack of mechanisms and know how have hindered any major shifts towards genuine consultative processes in the design of policymaking and policy implementation. This is particularly acute on the regional and local levels, but national level engagement itself is still spotty. Donor programs designed to address these gaps are for the most part still in mid-stream, and they need time to have some effect or for alternative ideas to spring from the experiences tried.

Government efforts to address the consultation process are underway. In partnership with the Organization for Security and Cooperation in Europe (OSCE) and the United Nations Development Programme (UNDP), the government has drafted out a national strategy for cooperation and development with civil society (OSCE Handout, 2015). This strategy identifies the need to further improve the legal environment for CSO operation. It also highlights the need to create consultation mechanisms at all levels of government. It further identifies the need to provide ways for CSOs to engage with the government in service provision and other services.

One key component of the strategy is consideration for how to develop a state level civil society fund or as it has preliminary been called the National Foundation for Civil society Development. This fund according to government officials is still to be fully envisioned but primarily would consider supporting a broad profile of civil society organizations and actors that comprise the sector, many focused on humanitarian and service delivery activities. How advocacy and or watchdog or other human rights related organizations would cooperate with the fund is unclear, even as growth in such organizations has seen the greatest increase in recent years. (Ibid, p.11)

In sum, the contextual factors while more favorable than a few years ago are still not optimal for the establishment of a legacy mechanisms in the short term. Civil society has developed, but its intra-sectoral development is still fresh and its contextual surroundings are still fragile. Both of these factors suggest international support and presence remains at least a short-term to mid-term need.

Conclusion and Recommendations Section I and II

¹⁴ Please see the 2014 CSOSI Ukraine report for more details.

The feasibility study suggests that there is currently neither a clear domestic actor that could currently take over the international role that is played by PACT or an appropriate context for establishment of such a domestic mechanism. Therefore it is recommended that a continued international presence/mechanism be considered for the short term – approximately three years.

This international role should emphasize how to strengthen current (and evolving) actors to build up capacity for future legacy efforts. Strategically, programming should:

Encourage and make available broad thematic technical assistance for ANY reform area: The priority reform areas of anti-corruption, rule of law, and public administration reform are certainly critical. At the same time, progress in addressing complex issues in health, agriculture, education, etc. can and should be part of further international emphasis. This would assist to address public concerns about concrete effects of the reform process and provide a wide set of organizations access to funding and technical assistance for policy engagement in various issue areas.

Emphasize the need for advocacy and analytical products to have a consultation process/system: Consultative processes are certainly in place between government and expert groups and to some extent expert group/CSOs and a broader set of stakeholders. Emphasis on making this two tier consultation process a normal part of addressing policy issues should be part of continuing efforts.

Emphasize advocacy processes where analytic products have a quality management system: Several of the actors are putting in place ways to improve the quality control of analytical products. International efforts should focus on working with them to achieve functioning systems as well as making peer review and related quality management processes part of the culture of policy research infused advocacy.

Emphasize regional level policy processes. This emphasis should try to ensure that 1) regional and local stakeholders are part of national level consultation processes and that 2) reform processes on the local level further encourage and develop consultation processes for local-local stakeholder engagement.

Make available capacity building enhancements for multiple levels of organizations/initiatives. Domestic organizations have gained the skills to provide capacity development to a variety of organizations. Further funding for such efforts should be considered. For those that are most developed, assistance should focus on ways that 1) the mechanism can introduce new ideas to the sector and 2) as a facilitator for bringing together various actors and coalitions together. Specifically this should include ways to ensure integrated stakeholder reform efforts that include multiple government, civil society, donor and regional levels.

International Role to:

- Provide financial support to advocacy opportunities
- Provide targeted capacity assistance as visionary
- Serve as a facilitator and convener of multi-level and multi-actor initiatives

Section III: (Mid-term) Advocacy Legacy Mechanism

This feasibility study began by assessing the current suitability of a number of actors for being part of or leading an advocacy legacy mechanism and the contextual suitability for such an effort. The fact that an advocacy legacy mechanism is not recommended for the short term does not preclude considering what might be appropriate in the midterm. Therefore this section examine the ‘what if’ portion of the task in considering advocacy legacy mechanisms most conducive to Ukraine for the mid-term. It brings together lessons learned from other USAID legacy and closeout efforts in CEE and SEE to consider different legacy options for Ukraine.

To start, the section examines some of the main types of USAID legacy mechanisms. It then looks at how mechanism structure and focus appear to have affected advocacy related efforts. Based on this, it looks more closely at practices and lessons learned from the different mechanisms to make specific recommendations for a Ukraine mid-term mechanism.

Types of mechanisms

For more than two decades, USAID democracy and governance programming has had a rich presence in CEE and SEE to foster civil society development and for civil society to encourage democratic development. USAID has taken different directions in which types of legacy mechanisms it puts in place, but type of mechanism partially appears to be determined by other USAID programming efforts in place and reform issues to be further emphasized in a country. Hence type, circumstances, and purpose are closely linked.

As an illustration, if a country also had in place an Economic Enterprise Fund this was reflective of USAID emphasis on economic reform and development issues and this was likely a component or at least a consideration as part of the legacy mechanisms or sets of mechanism put in place. For example, one of the USAID legacy efforts in Poland – the Polish American Freedom Foundation (PAFF) – was established as a legacy organization to the Polish-American Enterprise Fund. Its objectives included both economic reform and other democratic governance and civil society issues.

Particularly if multiple institutions are already in place in a country, there are likely to be multiple legacy mechanisms and focus areas. For example in Bulgaria, the America for Bulgaria Foundation came out of the Bulgaria American Enterprise Fund (BAEF). Its focus was on further business development. Similarly the American University in Bulgaria (AUBG) was part of the legacy mechanism to focus on higher education (USAID, 2007).

In other country legacy planning, USAID has made Global Development Alliance (GDA) private-public partnership models that cover the country as part of a regional fund and where the set of partners reflect mechanism thematic emphasis. For example, the Baltic American Partnership Fund (BAPF) was established as an USAID and Open Society Institute (OSI) joint initiative with a specific emphasis to further develop civil society with programming for each of the three Baltic countries. Similarly, the Trust for Civil Society in Central and Eastern Europe (CEE Trust) brought together USAID and private

Types of Legacy Mechanisms:

Combination of legacy organizations/institutions such as Economic Enterprise Funds and other institutions

Broad-based Global Development Alliances such as the CEE Trust set up as a regional fund with specific country focus and the Balkan Trust for Democracy set up with a regional focus

No mechanism: Handoff to state level foundation and key organizations

American foundations¹⁵ that had been focused on civil society development in the region. It was designed to further support the work of the sector in initially the four and then later seven countries¹⁶ as a way to leave in place a strong CSO sector.

USAID has augmented or in some cases replaced country legacy mechanisms (see below) with regional legacy mechanisms. USAID's establishment of general reform focused regional funds like the Balkan Trust for Democracy (BTD) set up in 2003 as a joint initiative between USAID and a US NGO and US foundations¹⁷ was tasked with continuing to address democracy governance issues and engagement with the government in countries of SEE. The Black Sea Trust for Regional Cooperation (BST)¹⁸ also made up of a similar collection of partners addressed governance and security issues for the region.

The third major mechanism is no mechanism or only relatively minor sector specific follow on assistance.¹⁹ Romania and Croatia (2007) closeout strategies emphasized plans to strengthen key civil society sector lead organizations and to strengthen their engagement with their governments. The last two years of programming in each particularly focused on areas that required attention before USAID departure such as minority rights in both and in Romania it also meant an emphasis during final years of USAID support for "improving government and CSO relations," so that they were 'better prepared to deal with the policy and governance issues (Blair et. al, 2007 and Nelson et. al, 2007).

Mechanism Effects on Supporting Advocacy Related Efforts

None of the three types of mechanisms specifically linked their success to advocacy efforts rather to specific and broad democratic and economic reform issue areas as well as development and strength of the civil society. Regardless, analysis of the mechanism's performance in reaching their specific objectives does provide some insights into how the structures of the mechanisms affected advocacy efforts in the respective countries.

No Mechanism: Could hamper ability of advocacy and watchdog organizations to function at critical time of political reform

Starting with the non-mechanism option, a number of issues merit attention. The decision to have no mechanism suggests that there are sufficient civil society actors and strength to further develop and that there are enough other donors. Part of the consideration to not develop a specific mechanism appears to be the decision that civil society in Romania and Croatia could primarily 'go it alone' after closeout. Each had a level of vibrancy at that time comparable to levels seen in other CEE countries that went through closeout.

¹⁵ The private foundations include: the Atlantic Philanthropies, the Charles Stewart Mott Foundation, the Ford Foundation, the German Marshall Fund of the United States, Open Society Institute, and the Rockefeller Brothers Fund. See: <http://www.ceetrust.org/about-us/founders.html>

¹⁶ By the end of its mandate in 2013, the CEE Trust covered seven countries including Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia, and Slovenia,

¹⁷ The German Marshall Fund of the United States, USAID, and the Charles Stewart Mott Foundation create BTD. Later additional bilateral and private donors also began to cooperate with the fund. For more information please see: <http://www.gmfus.org/civil-society/balkan-trust-democracy>

¹⁸ For more information, please see: <http://www.gmfus.org/civil-society/black-sea-trust-regional-cooperation>

¹⁹ Romania like Bulgaria had an Economic Enterprise Fund, but follow on assistance was focused on education and business issues Croatia follow-on assistance primarily focused on a network of exchanges on city-to-city partnering (Swedberg, 2008, p. 14).

Whatever the factors in the decision, one difference between these two countries and others should be noted. Each still had democratic governance structures where so-called democratic consolidation was less ‘solidified.’ A quick look at *NIT* Democracy Scores for CEE countries like Poland and Estonia shows that closeout happened when these countries were already considered to be ‘consolidated democracies.’ Legacy efforts in all three SEE countries took place when each country was still considered to be ‘partially consolidated democracies.’²⁰ Each had reached certain levels of ‘developed civil society’ comparable to CEE neighbors, but the general democratic context of the countries was more precarious.

An USAID review of lessons learned for these two countries and Bulgaria particularly describes the danger of the countries ‘backsliding in their reform process.’ Here the USAID Mission in Bulgaria had built in flexibility for closeout that allowed it to continue for several more years to fund the very watchdog and advocacy type organizations and activities that were sorely needed after close out (Swedberg, 2008, p., 9-10). There was less USAID flexibility in Romania and Croatia. And in both while there was also democratic backsliding (Romania earlier and Croatia later as per their particular paths to EU Accession), there was also a concern simply about finding funds to continue advocacy and watch dog activities.

National foundations were considered part of the answer, but the nature of the foundations was at best to focus a portion of attention on such advocacy issues. For example, in Croatia, the National Foundation for Civil Society Development lists six objectives of its funding, with only the last one being specifically focused on assisting in the reform process.²¹ Therefore while the intention and practices of such funds might be positive, such funds have only limited attention to give to advocacy, policy, and watchdog issues. This was accentuated by the exit of other private US donors and OSI and at least initial difficulties in getting EU funds. It created a gap in advocacy funding in both countries, which was somewhat eased when EEA funds started in Romania (2009) and in Croatia (2013). In both these situations the regional funding options available through the trusts and for Romania from the CEE Trust could help, but it did not replace the loss of such funding.

GDA Mechanism: Could require more explicit focus on advocacy-related and purposeful grant making

Several different points can be learned from the experience of the GDA funds, dependent on whether there was country specific programming such as with the CEE Trust or the BAPF or whether the fund by design had a regional focus like the BTD and BST.

For regional funds that had a country specific focus, civil society strengthening was both a core objective and core means by which further democratic reforms could be achieved. Particularly in the Baltic countries, one of the legacy practices highlighted as a result of efforts by the fund was the intensifying of partnerships amongst civil society, government, business, sector, and academics in what were considering “mutually reinforcing initiatives” (BAPF, 2010, pp.2-3). Fund observers see the

²⁰ Please see the history of NIT Democracy Scores at: <https://freedomhouse.org/report/nations-transit/nations-transit-2015#.Vma9R9Afz9E>

²¹ The sixth objective reads: “Increasing the influence of civil society in the process of creating public policy,” (ICNL, 2010, p. 7)

partnership development as useful for addressing policy issues as well as creating more understanding of the role of civil society in the different countries.

At the same time CEE Trust in their examination of lessons learned suggest that the purpose of the Fund itself might need to be more explicit in relation to advocacy issues. Enhancing civil society development as a purpose is broad enough to include a number of key areas. Yet it might not specifically support one of the fundamental elements of this civil society development – its role as a relevant and strong voice in the reform process of its country and the continued maintenance of democratic standards in the country.

In theory, the broad design of the CEE Trust and focus on different ways to support civil society appears to be appropriate in being flexible and for adapting to local country situations. For example, having a mixture of project and institutional related funding options for this Trust as well as the BAFD in hindsight is considered critical for achieving the results they did.²² Yet such a broad purpose also divided attention. The CEE Trust acknowledges that it needed to put more specific attention to advocacy related issues in each of the countries as a way to ensure longer-term civil society relevancy and involvement beyond the duration of the Fund (CEE Trust, p.7).

The regional GDA funds present similar challenges in even more diffused settings. Namely without more directed focus, funds have had a limited ability to achieve their broad agendas in any specific country. BTD now in its second iteration and BST have by design been focused on broad governance issues for grant making. Yet an external evaluation of the BST identifies the down side of this broad approach; namely the evaluation suggests that the broad nature of the agenda results in minimal outcomes if the mechanism itself is not focused on how to link and build grant making portfolios towards achieving a greater set of objectives specific to the local context. Regional funds by their nature tend to be scattered; however the lesson suggested from these experiences appears to be that regardless of the territorial coverage, the objective coverage needs to be focused and strategic. Or as the evaluation notes, a more “creative and developmental grant making approach rather than just responsive disbursement of funds” is required (Milosheva and Krushe, 2009, pp. 4-5).

Combination of legacy organizations/institutions mechanism: Could require careful consideration of legacy spin-offs and emphasis should include international presence/inputs

The merits of multi-sector legacy mechanisms are likely to be many in that the coverage of specific areas of concern can be more comprehensive. Yet, there should also be caution in considering how each of the legacy mechanisms is domesticized. A recent evaluation of Eurasia Foundation legacy efforts in the post-Soviet states raises concerns about how and when legacy mechanisms are structured in a way that they become the competition of local organizations that they were meant to support. Eurasia Foundation legacy efforts in each of its countries demonstrate that flexible structure and design might be a good idea in theory. Yet in practice spin-off organizations with these multiple options are often tempted (partially due to apparent shortcomings in the close-out process)²³ to become multi-purpose implementing as well as grant making foundations. (Fremming et. al, 2013)

²² Similarly in a review of the BTD lessons learned, having a combination of private-public partnership options was considered as allowing USAID to have a greater flexibility to respond to issues on the ground (USAID, 2005, p. 2)

²³ Concerns were also raised about the time allowed for local legacy foundations to go from grant-giver to foundation as well as the technical assistance for country staff needed to achieve this.

The evaluation also highlights the fact that a currently successful actor might not be successful in its new/modified role without sufficient guidance and capacity development. Some of the key challenges for the Eurasia Foundation legacy organizations were to learn how to be a different type of entity: to learn how to fundraise, strategize etc. This in retrospect required more time and inputs than originally considered (Ibid).

Finally, a theme running through the report descriptions of most legacy mechanisms is both the need and the value added of including an international component, often with partial international governance structures. The benefits include international networking for idea sharing and management innovations, greater financing possibilities, as well as greater local credibility. Recent examples for why such a 'presence' remains important can be seen from what happened when Hungarian 'local' actors were the focus of a 2014 government raid on two CSOs managing European Economic Area (EEA)-Norway funds for advocacy issues.²⁴ This is juxtaposed against the apparent ability of the America for Bulgaria Foundation to withstand pressures from the Bulgarian government for its financial support of protest initiatives,²⁵ which started in 2013 and continue to intensify.

Conclusion and Recommendations Section III

There is an increasing understanding amongst donors and practitioners in CEE and SEE of how to make legacy mechanisms more effective. Regardless if mechanisms are for advocacy or more general civil society development, the structure must be 'fit for purpose' for the mission. The purpose must be clear (with a built in dynamism), and the flexibility of engaging (in different ways) with multiple types of actors must be present. With these elements in mind, the following recommendations are put forward for the design of a mid-term advocacy mechanism in Ukraine.

Designate and plan for a specific advocacy legacy mechanism with structure to be determined: Some type of mechanism will likely be warranted for Ukraine. Even assuming that Ukraine makes great strides with its reform progress in the short term, it is unlikely that the country will be in the situation where it has managed to consolidate most levels of its democratic governance. Even if it did manage to reach such a milestone, having specific assistance and funding support for organizations focusing on advocacy issues was considered necessary in most CEE countries.²⁶ Particularly since the EU Accession possibilities and funding efforts are not similarly possible for Ukraine as they have been for other CEE and SEE countries, the funding coping mechanisms that advocacy related organizations have somehow managed in Romania and Croatia would be less of an option in Ukraine. Therefore whether it is a new mechanism or combination mechanism based on competencies of different actors, a specifically focused advocacy mechanism is recommended.²⁷

²⁴ See this newspaper article on the raid <https://euobserver.com/political/125537>. Also see 2015 NIT analysis: <https://freedomhouse.org/report/nations-transit/2015/hungary> [Accessed December 4, 2015]

²⁵ (Anti-Corruption Conference informal informant interview, November 16, 2015) Please also see 2015 NIT analysis of the civil society protest initiatives in Bulgaria. <https://freedomhouse.org/report/nations-transit/2015/bulgaria> [Accessed December 4, 2015]

²⁶ And indeed even after the closure of the CEE Trust, one of the key vulnerabilities identified by Trust officials is the need for watchdog funding (CEE Trust, 2013, p. 9)

²⁷ Given that Ukraine also has an Economic Enterprise Fund, its role in a larger close out legacy strategy could also be considered. See for more information on the Fund: <http://www.wnisef.org>

Include an international dimension and GDA options: Based on near-term experience, a new mechanism or combination of key actors should include an international dimension and include GDA options. Even if individual funding of several talented actors would be sufficient to provide the sector with its platform and facilitating functions, the role of international actors would still likely be needed.²⁸ This role as part of boards and or part of staff would ensure greater stability of the mechanism and its ability to cultivate the respect and cooperation it needs to successfully function domestically. Funding options that bring together GDA partners would further fortify this

Design project and institutional programming options to have broad advocacy focus to include multiple actors and capacities: Programmatically, if the envisioned objective is to be able to have a broad advocacy focus, this needs to be articulated and strategized for efforts that are able to support the process from ‘sourcing to selling’ of advocacy efforts.

The current situation with various levels of capacity suggests that there will continue to be a need in three years’ time to build up some capacities as well as to cultivate an ‘open door policy’ for actors to do advocacy on a wide variety of policy issues that might not currently top agendas. Therefore the mechanism approach would need to include institutional and project related funding; to include national as well as regional emphasis; and to include innovative ways to assist the evolving civic and volunteer initiatives.

Design the mechanism to have a creative and developmental grant making approach: Ensure through management and strategic visioning of the mechanism that the mechanism has directionality towards advocacy objectives. Lessons from the other mechanisms suggest that there is a very fine line between being broad and inclusive and being able to have flexible directionality.

Ensure that the capacity development needs of the mechanism are systematically supported from the beginning: Depending on the structure and actors of the mechanism, a clear strategy for either further developing or creating the necessary capacities inside the mechanism needs to be articulated. This is to ensure that the mechanism has the time and ability to achieve a capacity level to carry out its full obligations (from developmental grant making to fundraising).

Design the mechanism to have a phase out or sustainability strategy for its own cycle of engagement: A key component of this would be to articulate the role of the mechanism in relation to other CSO actors and to ensure that the mechanism should remain a grant-giving foundation/fund and refrain from spinning off into an ‘implementing foundation.’

²⁸ For additional considerations on whether to have or include an international presence see: PACT’s review of Intermediary Support Organizations (PACT, 2008).

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PACT Memo on RPR, February 2015

PACT Organizational Performance Index

PACT Organizational Capacity Assessment Handbook

2014 CSOSI Ukraine Report

2015 NIT Freedom House Report

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