



ევროკავშირი
საქართველოსთვის
The European Union for Georgia



Georgian Civil Society Sustainability Initiative
სამთქალაქო საზოგადოების განვითარების ინიციატივა

Civil Society Organizations' State Funding Reform

Policy Paper

Tbilisi 2018



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This policy paper has been produced within the framework of the project “Georgian Civil Society Sustainability Initiative” supported by the European Union and the Federal Ministry for Economic Cooperation and Development of Germany. Its contents is the sole responsibility of CSI and can in no way be taken to reflect the views neither of the European Union nor the Federal Ministry for Economic Cooperation and Development of Germany.

The project is implemented by the Konrad-Adenauer-Stiftung e.V. Civil Society Institute, Center for Strategic Research and Development of Georgia, Center for Training and Consultancy, Education Development and Employment Center



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Introduction

Contemporary Georgian civil society organizations¹ came into existence after the disintegration of the Soviet Union. With the onset of this historic occurrence, the United States of America and European states took their interest in supporting Georgian civil society. In 1992-1995 the number of civil society organizations reached several thousand. These associations relied on Western funding. Typically, their public agenda was shaped by the received financial support from international donor organizations. In terms of value orientation, similar to civil associations in Eastern European countries, Georgian civil society organizations were mainly focused on the protection of liberal principles. Hence, their paradigm of activities was rooted in the critique of the power abuse by the state². With time, the scope and forms of Georgian civil society organizations' activities expanded. In 2013, the parliament of Georgia recognized their significance in the establishment of democratic political system and committed to supporting civil society organizations³. At present, the Parliament of Georgia is working on the State Concept on Civil Society Organizations' Development which is one of the several commitments that Georgian Parliament has taken as part of the National Action Plan for Open Government Partnership⁴.

Georgia adopted its grant legislation for civil society organizations within the first decade of its independence, one year prior to the Civil Code approval. The initial edition of Law of Georgia on Grants which was developed in 1996 did not consider state institutions as grant issuing entities⁵. By the end of the second decade of independence, in 2009, unified state fund was established in Georgia⁶ aiming to allocate finances for civil society organizations. In 2010, as a result of the amendment in the Law of Georgia on Grants, legal entity of public law was added to the list of grant issuing entities. After another amendment made in 2011, Georgian ministry was included in the

¹ We define the term 'civil society organization' as per Civil Code of Georgia (Parliament of Georgia. 31, 24/07/1997) which stands for the registered non-profit (non-commercial) legal entities. In public life, these entities are referred to as non-governmental organizations but we believe that the term 'non-governmental organization' is inaccurate and encompasses not only non-commercial citizen associations but trade unions and entrepreneurial entities.

² See. Nodia G., 2005. *Civil Society Development in Georgia: Achievements and Challenges*, Caucasus Institute for Peace, Democracy and Development.

³ The signatories of the Memorandum of Cooperation between the Parliament of Georgia and civil society organizations are the Chairman of the Parliament and over 200 civil society organizations.

⁴ See. The Action Plan of the Parliament of Georgia, 2017, commitment N1.8 (The working plan of 2017-2018 was divided and adoption of the Concept was included in 2017 Action Plan. Nowadays, the Parliament of Georgia works on 2018 Action Plan).

⁵ Law of Georgia on Grants, Parliament of Georgia, 19-20, 30/071996, a. 2(1).

⁶ Based on the decree of the President of Georgia N233, (11/05/2009) and the Resolution of the Government of Georgia N367, (12/05/2009) non-profit (non-commercial) legal entity Civil Institutionalism Development Fund was created. The Ministry of Corrections of Georgia was designated as the founder of the fund. The fund ceased to exist in 2013 but according to the information provided by Public Registry of Georgia, the entity has not undergone legal procedures of liquidation. Therefore, it remains on the list of registered organizations.

grant issuing entity list, and as a consequence of 2017 revision of the law – The Office of the State Minister of Georgia and ministries of autonomous republics of Adjara and Abkhazia⁷ were added.

At present, when unified state fund has been suspended, a decentralized model of state funding operates for civil society organizations in Georgia. Within this framework, each legal entity issues grants in accordance to its mandate⁸. Despite legal definitions given on state funding in the corresponding legislative framework, the state grant has failed to ensure financial sustainability of Georgian civil society organizations: The latest data reveals that 95% of the total financial income that Georgian civil society organizations receive come from Western international funds⁹.

Hence, the aim of this document is to assess the existing state grant funding system for civil society organizations and to develop a concept for aforementioned system reform¹⁰. This paper examines only state grant allocation for civil society organizations and does not review other forms of financial support¹¹. In the first chapter, by relying on various local and international sources, we will attempt to justify the notion that at current stage of the country development, the reform of state grant funding for civil society organizations bears special significance. The next chapter will overview the European models on state funding for civil society organizations, and pinpoint the place of Georgia besides them. The third chapter will elaborate on the system of state grant funding and its drawbacks. The fourth chapter will provide main areas that the systemic reform necessitates.

It is noteworthy to mention that about 50 civil society organizations, donors and state organizations took part in the process of elaboration of this document¹². Therefore, in most cases, we rely on the arguments and recommendations provided by these organizations. Furthermore, the European

⁷ Law of Georgia on Grants, a. 3(1)(p).

⁸ It should be noted that in 201-2012, semi-centralized funding scheme operated in Georgia. In the framework of aforementioned scheme, legal entities of public law and ministries were eligible to issue grants on the one hand. On the other hand, the unified fund for state funding of civil society organizations was in place which offered institutional support to these organizations. We will provide brief overview of the scope of the fund activities in the last part of this chapter.

⁹ The official statistics on the income of civil society organizations are available. However, according to the popular opinion, the information about the distribution of shares in the source of income, as indicated in the text, is close to the reality. See. CSO Sustainability Index, 2016, United State Agency for International development (USAID).

¹⁰ In the section dealing with the systemic assessment of state grant funding of civil society organizations, this paper relies on Civil Society Institute's previous research on the same issue which investigates legal environment and praxis in state funding. See. Salamadze V., Paniashvili L. et al, 2017, *State Funding Mechanisms for Civil Society Organizations in Georgia*, Civil Society Institute.

¹¹ Besides state grants, there are civil society organizations' state funding forms such as state procurement, vouchers and so-called Hungarian (1 percent) model. This paper does not examine education and research grants system in the sphere of education.

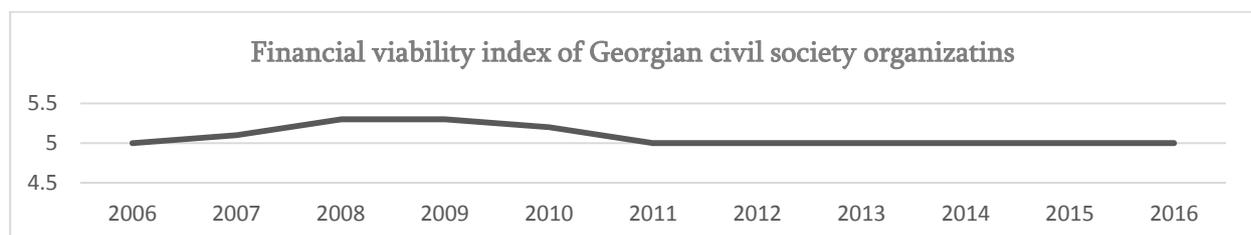
¹² Prior to drafting the given paper, a forum on state funding of civil society organizations took place which was organized by Civil Society Institute. On the event, civil society organizations' state funding issues were discussed. In the framework of the forum a working group was appointed (around 30 organizations) which focused on the directives of the reform; Findings and recommendations of the working group were presented to the forum participants (See. forum and working group member organizations' list, Attachment N1 and N2).

Center for Not-for-Profit Law (ECNL) provided expert conclusion on the state funding reform. Most of the recommendations are reflected in given document.

Besides, we consider the legislative and executive government branches of Georgia, local self-government bodies and Georgian civil society organizations as the target audiences. As well as that, we hope that this document will also be recognized by those who are concerned about civil society development in Georgia, including research organizations, political parties, local donors and media representatives.

The Necessity of the Reform in the System of State Funding for CSOs

It is a common knowledge that civil society organizations in Georgia are relatively stronger and more effective than their counterparts in other countries of the region. Generally, the legal environment of creation and operation of CSOs in Georgia is quite positive. According to the official data, there are over 20 thousand civil society organizations registered in Georgia. They enjoy a wide range of civil and political rights, and the state supervision of their activities takes place within legitimate limits. Participation in state reforms is considered one of the strongest aspects about Georgian civil society organizations¹³. The legal environment and tax policy regulations in relation to civil society organizations are gradually changing, however their dependence on international funding remains invincible structural problem. Stagnation in financial viability of civil society organizations is reflected in numerous reports on Georgia, including in CSO Sustainability Index¹⁴ report from 2016.



Source: CSO Sustainability Index, 2016

As per latest data, 95 percent of Georgian civil society organizations' income is derived from international grants assistance. Other forms of financial aid such as individual citizen contributions,

¹³ Pinol Puig G., 2016, *Situation Analysis of Civil Society in Georgia*, Europe Foundation; სხვაობა. Lutsevych O., 2013, *How to Finish a Revolution: Civil Society and Democracy in Georgia, Moldova and Ukraine*, Chatham House.

¹⁴ CSO Sustainability Index 2016, United States Agency for International Development (USAID).

has not been established as a substantial financial source for civil society organizations. The research reveals that only 6 percent of the population gives donations to civil society organizations and only 9 percent has volunteered in their activities¹⁵.

Corporate funding which represents the subject of particular interest to civil society organizations, happens to be a problematic issue. According to the *CSO sustainability index*, business sector usually sees civil society organizations as politicised entities and on the grounds of potential tensions with the government, avoids collaborations with them ¹⁶. On the other hand, not all civil society organizations view business enterprise sponsorship as acceptable. They consider that businesses allocate funds for charity purposes because they are driven by narrow corporate interests¹⁷.

These indicators are noteworthy, even without analysing the additional data. However, the existing situation in terms of financial sustainability of civil society organizations, acquires alarming nature against the background of the paradigm shift in funding praxis of international donor organizations. According to the Organization for Economic Co-operation and Development (OECD), over the last three years, international funding has been on the decline in Georgia: In 2013, the total sum of funds that Georgia received from international development aid, has amounted to 646 million. This margin has decreased by approximately 100 million in 2014, and in 2015, amounted to only 448 million¹⁸. In contrast, the European Commission which is one of the biggest donors alongside the United States Agency for International Development (USAID), prioritizes issuing large grants. In such conditions the number of recipient civil society organizations is reduced considerably¹⁹. Besides, in recent years, according to the World Bank evaluations, Georgia's position has been oscillating between below average and above average income countries. Undoubtedly, in parallel to the improvement of Georgia's indicators in economic development, the generous international financial assistance that Georgian civil society organizations have been receiving so far, will decrease (see. Table N1).

International aid received by Georgia (ODA)			
N	Year	Amount (million \$)	Difference with prior year (million \$)
1	2013	646.3	-
2	2014	562.5	↓ 83.8
3	2015	447.6	↓ 114.9

Table N1
Source: CSO Sustainability Index, 2016

¹⁵ Amongst countries measured on volunteerism, Georgia ranked 124 out of 139, and 137th on the global chart of citizen charitable behaviour towards civil society organizations. See. World Giving Index, 2017, Charities Aid Foundation. Citizen estrangement from civil society organizations can be explained by various reasons. For instance, according to one research, civil society organizations see citizens as 'beneficiaries' at best s

¹⁶ CSO Sustainability Index, 2016.

¹⁷ Natsvlshvili V., 2018 *Non-state funding of civil society organizations in Georgia*. Center for Strategic Research and Development of Georgia.

¹⁸ This data does not separate financial support from state on the one hand, and civil society organizations, on the other. However, the experts note that the reduction of overall index is reflected proportionally on the amount of international financial aid received by cso's.

¹⁹ CSO Sustainability Index, 2016.

Although since 2009, the state²⁰ has become eligible for issuing grants for civil society organizations, state grant funding has not been established as a robust financial aid mechanism²¹. In the third chapter of this document, we offer detailed analysis of Georgia’s state grant issuing model. However, prior to the analytical evaluation of the existing mechanism, we would like to overview European models of state funding for civil society organizations.

European Models of State Funding

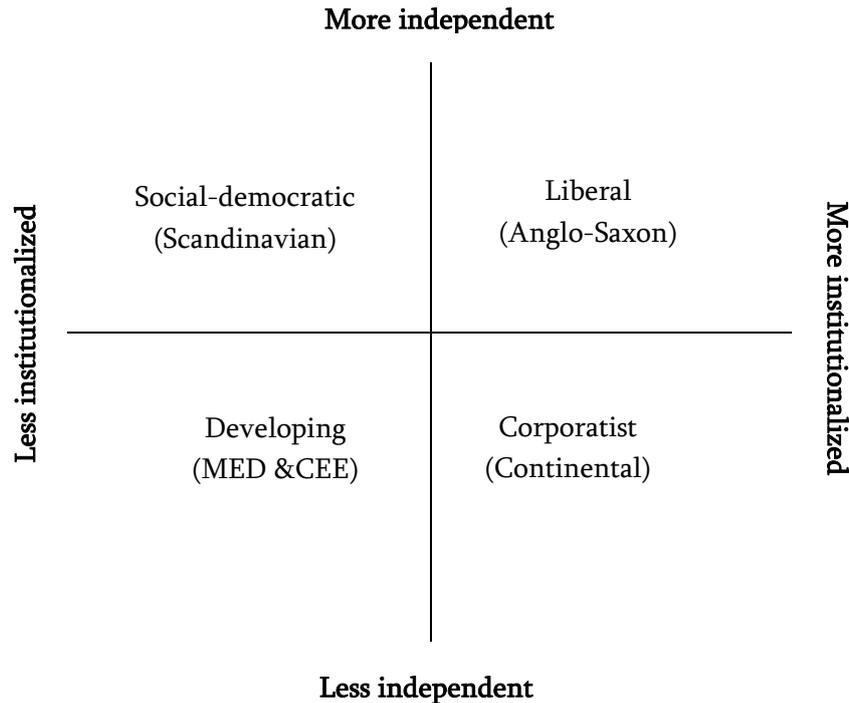
In the European region, levels of civil society organization development vary. The role and functions of these organizations are typically contingent on the legal and fiscal environment existing in the respective country, as well as its historical, cultural and religious precursors²². European Center for Non-for-Profit Law (ECNL) underlines two defining characteristics of the role and functions of SCO’s: The level of independence, and the institutionalization²³. The first characteristic is linked to the autonomy of civil society organizations. It assesses whether they are capable of operating independently from the political and financial influence of the state and other agencies. The second characteristic – institutionalization – studies capacities and infrastructures of civil society organizations in the framework of their cooperation with state agencies and whether they ensure provision of public services. Based on these two attributes, European Center for Non-for-Profit Law (ECNL) differentiates four European models of relations between civil society organizations and a state:

²⁰ Based on the decree of the President of Georgia N233, (11/05/2009), and the Resolution of the government of Georgia N367, (12/05/2009) non-profit (non-commercial) legal entity— civil institutionalism development fund was created. The Ministry of Corrections of Georgia was designated as the founder of the fund. Based on the amendments made in the Law of Georgia on Grants (Parliament of Georgia, 19-20, 30/07/1996) in 2010, legal entities of public law became eligible for issuing grants in line with legislation; Little later, in December 2011, another amendment was made in the law. As a result, Georgian ministry and the office of the State Minister of Georgia was included on the list of grant issuing entities. As a consequence of 2017 revision of the law, ministries of the autonomous republics of Adjara and Abkhazia were added. We will discuss this matter in detail in the next chapter.

²¹ Salamadze, Paniashvili *et al*, 2017.

²² See. Sator B., 2010. *International Practices on Funding Civil Society Organizations*. Organization for Security and Co-operation in Europe.

²³ Bullain N., 2010. *European Models and Practices in Public Financing of NGOs*. European Center for Not-for-Profit Law.



The corporatist model implies that a state provides mandatory funding to civil society organizations in their social service provision. The state achieves this by utilizing various schemes; In countries where this model is applied (such as Germany, and France) the share of state endowments in the overall income of civil society organisations ranges from 55 to 75 percent. Consequently, civil society organizations in countries with corporatist systems are more institutionalized, and more dependent on state funds simultaneously. In contrast, civil society organizations in liberal systems provide social services with state endowments but they are less reliant on public funds. Their relations with the state are contract based, and the share of state funding in their overall income constitutes 35-55 percent. In countries where liberal model operates (for instance, the United Kingdom and Netherlands), civil society organizations have access to a variety of funding sources, henceforth, in parallel to social service provision, they work on state policies as well. Third, within the social-democratic model, the state ensures basic social service provision almost entirely. Therefore, the share of state funds issued for civil society organizations there, are relatively low, and range from 25 to 35 percent. In countries where this model is applied (for example, Sweden and Norway) the main function of civil society organizations is to work on state policies in various fields. In developing model countries, on the other hand (Greece, Portugal and majority of Eastern European countries), relations between the state and civil society organizations are not fully formed, the share of public funds are scarce in their income and limited to the support of international funds²⁴.

Without doubt, the form of relations between Georgian state and Georgian civil society organizations falls into the category of developing model. Although, Georgia's system lags behind other countries considerably (See. Table N2). While there are no accurate statistics available about

²⁴ See. Sator, 2010.

the state endowments that Georgian civil society organizations receive, the common knowledge is that such financial aid hardly exceeds 5 percent.

Examples of CSO state funding in 2014

N	Country	Total amount of funding	State funding	Shre of state funds
1	Slovenia	764 mln €	292 mln €	38.2 %
2	Hungary	1.855 bln €	554 mln €	31 %
3	Estonia	-	147 mln €	-
4	Serbia	-	63 mln €	-
5	Croatia	660 mln €	223 mln €	33.7 %

Table N2

Note: complete information about Estonia da Serbia is not available in following source

Source: Fobrici & Kostanjevic, 2016²⁵

Existing Model of State Grant Support for CSOs in Georgia

The state grant support for civil society organizations is regulated by the *Law of Georgia on Grants*. This law defines grant as a gratuitous financial allocation for the implementation of specific humanitarian, educational, scientific, research, healthcare, cultural, sports, ecological, agricultural, state and other programs that bear social significance²⁶. The analysis of Georgian legislation reveals that the goal of the state grant allocation is directly tied to the constitutional and legal agency of the grant issuing body. Ministries issue grants based on the goal of their state budget allotments and within the limits of their legally determined management, and government responsibilities²⁷. The definitions on the purpose of a grant that legal entities of public law issue, are scattered in the Georgian Law²⁸ on Grants and other legislative acts that regulate the relevant sphere²⁹. According

²⁵ Fobrici G., Kostanjevic M., 2016. *Comparative Analysis of Systems of Public Funding of Civil Society Organizations*. Macedonian Center for International Cooperation.

²⁶ *Georgian Law on Grants*, a. 2(1).

²⁷ Cause of the state grant issuance should comply with one of the purposes listed in a.2 (1) of the Law of Georgia on Grants. Besides, a Ministry is eligible to give a grant from funds that the entity received from an international donor organization. In such instances, the purpose of the grant allocation is considered as stipulated in the agreement signed between a ministry and the international organization. See. Salamadze, Paniashvili *et al*, 2017.

²⁸ a. 3(1)(p) in The Law of Georgia on Grants includes a list of purposes that legal entities of public law may issue grants for. The list looks like this: Grants for improving the quality of the education field; grants issued for covering tuitions; scientific grants; grants issued to support the integration of ethnic minorities in compact settlements and settlers in the highlands; Grants for youth and civil projects; Grants issued for refugees and internally displaced persons' socio-economic integration, and their access to subsistence; Grants issued for the popularization of reforms and innovations implemented in Georgia, and their expansion in international societies; Providing aid to Georgia's partner country governments in education, healthcare, social security, and sustainable development, assistance in the elimination of natural and human-caused disaster impact; Provision of state support in the implementation of activities for agriculture cooperatives.

²⁹ These legislative acts include: Organic Law of Georgia on Political Union of Citizens, Parliament of Georgia, 45, 21/11/1997; Law of Georgia on Innovation, Parliament of Georgia, 12/07/2016; Law of Georgia on Science,

to the resolution of Georgian government, the total cost of annual state grants issued by individual Ministries cannot exceed 1 percent of their approved budgetary assignments³⁰.

Georgian legislation overlooks grant issuing principles and procedures for Ministries and legal entities of public law. According to the Law of Georgia on Grants, a Ministry and an Office of the State Minister of Georgia are obligated to present the draft document of state grant allocation to the government of Georgia – in order for it to provide preliminary assessment of the grant’s aim, volume and utilization purposes³¹. As the resolution of the government of Georgia dictates, this rule applies if the amount of the grant exceeds 50 thousand Georgian Lari³². In such instance, state grant allocation document is presented to the government of Georgia together with the assent of the Ministry of Finance of Georgia³³. In line with these normative provisions, Ministries get the approval for specific grant issuing documents, rather than for general, multiple use procedures for grant allocation. Analysis of the existing legal framework reveals that the grant allocation by a Ministry is carried out in accordance with the rules established by the legal act of an individual Minister³⁴.

Procedures of grant allocation vary from one Ministry to the other. For instance, the order of the Minister of Justice of Georgia clarifies matters related to the acceptance of the grant competition application, qualification requirements, assessment criteria, publication of competition results, and other details concerning the grants competition³⁵. As per the order in question, the administration of the Ministry or its subordinate legal entity of public law develops and presents a grants program to the Minister for the approval. Within the frameworks of the grant program, a special council reviews the competition applications according to the pre-established criteria. The council member may be the employee of the Ministry, its subordinate entity or a Georgian citizen. In contrast, the grant allocation terms determined by the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, allows invitation of an

technology and Their Development, Parliament of Georgia, 21-22, 22/11/1994; Law of Georgia on the Public Service Development Agency, Parliament of Georgia, 04/06/2012.

³⁰ Resolution of the Government of Georgia N126, 18/03/2011, a. 1¹ (3). According to the same resolution, alteration of the pre-determined margin may take place with the consent of the Government of Georgia.

³¹ According to a. 3(2) of the Law of Georgia on Grants the same rule applies to the Ministries of autonomous republics of Adjara and Abkhazia. The latter present documents on grant allocation respectively to the governments of Adjara and Abkhazia.

³² According to a. 1¹(2) in the resolution of the Government of Georgia N126, 18/03/2011, if grant funds or the cost of property doesn’t exceed fifty thousand Georgian Lari, then a Ministry is authorized to make a decision on grant allocation with the prior consent of the Prime Minister of Georgia.

³³ Resolution of the Government of Georgia N126, a. 1¹, 18/03/2011.

³⁴ It must be noted that in some cases, a Ministry’s regulation provides a Minister with the authority to determine terms of grant allocation by those sub-entities that are subordinate to the same Ministry. One such example is the provision of the Ministry of Justice of Georgia. In another instance, general rules on a Minister’s authority to allocate grants is defined by the constitutional and legislative jurisdiction with which a Minister is provided. See. Salamadze, Paniashvili *et al*, 2017.

³⁵ Order of the Minister of Justice of Georgia N160 on the approval of grants allocation within the system of the Ministry of Justice of Georgia, 30/12/2011.

international or a local civil society organization representative in the reviewing council³⁶. Unlike these state bodies, the Ministry of Sports and Youth Affairs of Georgia³⁷ and the Ministry of Culture and Monument Protection of Georgia do not have any normative rules for grant allocation. However, absence of the aforementioned norms, does not prevent these entities from issuing grants³⁸. The analysis of grants allocation rules of various legal entities of public law, reveal that their funding practices vary significantly³⁹. It is clear that the state funding system is not supported by legal standards of transparency⁴⁰, therefore, the process of state grant allocation typically evades public attention. Experts point out that the opacity of state grants allocation system creates risks of subsequent political and financial corruption.

There are disparities between purposes of grants issued by state agencies and the description of the same grants activities. As a rule, grants issued by the Ministry of Justice of Georgia concern issues such as re-socialisation of criminal offenders, improvement of their social skills, and support of their employment and entrepreneurial initiatives. Grants that the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia issues are typically directed towards assistance of returned migrants and activities such as improvement of internally displaced persons' livelihoods. The Ministry of Sports and Youth Affairs of Georgia allocates funds for such purposes as support of distinguished sportspeople, sports federations and organizations. Grants issued by Electoral Systems Development, Reforms and Training Center are used to educate voters on elections processes, raise legal awareness of ethnic and other minorities, promote realization of voting rights of persons with disabilities, and other matters that relate to elections⁴¹. Thereby, the research conducted by the Civil Society Institute reveals that normally, state grants are not issued to support causes such as institutional development of civil society organizations or investigation of activities of state entities, neither for such purposes as assessment of state entities' praxis in human rights defence, and development of reform proposals for various state policies. At the same time, the research demonstrates that since 2010 until today, Georgian state entities have funded numerous civil society organizations (See. Table N3).

³⁶ N246 order of the Minister of Internally Displaced Persons from the Occupied Territories of Georgia on the approval of grants allocation within the system of the Ministry of Internally Displaced Persons from the Occupied Territories of Georgia, 18/02/2015.

³⁷ According to the legal amendments made in 2017, the Ministry of Sports and Youth affairs of Georgia was annulled and its competences delegated to several ministries.

³⁸ See. Salamadze, Paniashvili *et al*, 2017.

³⁹ *Ibid*.

⁴⁰ Due to latest changes made in the grant allocation procedures at the Ministry of justice of Georgia, grants competition related documentation is published and grants are received through the unified system of the State Procurement Agency. See. Order of the Minister of Justice of Georgia N160 on the approval of grants allocation within the system of the Ministry of Justice of Georgia, 30/12/2011. Clearly, the rule established by the Minister of Justice of Georgia does not apply to other Ministries or legal entities of public law (Except for legal entities of public law that fall under rule of the Ministry of Justice of Georgia).

⁴¹ See. Salamadze, Paniashvili *et al*, 2017.

State Grant Allocation for CSO's, Several Examples

N	State body	Period	Number of Projects	Number of Organizations	Amount (ლ)
1	Ministry of Justice	2013-2017	55	36	713 445
2	Ministry of Internally Displaced Persons	2015-2017	19	11	1 412 390
3	LEPL Center for Electoral Systems	2010-2017	279	-	10 501 897
4	LEPL Innovation Agency	2016-2017	-	4	17 600

Table N3

Data period from 2013 to May 2017

Source: Salamadze, Paniashvili *et al*, 2017

One of the major drawbacks of the state grants system is the inability of local government bodies to issue grants. The Law of Georgia on Grants does not mention local governments on the list of grant issuing entities, implying that municipal bodies are prohibited from allocating grants for civil society organizations.

Despite this, investigation of practices of self-government entities in Georgia, demonstrates that municipal bodies in fact, allot budgetary funds to civil society organizations – on the condition that the issued endowments and their legal relations with civil society organizations are not referred to as grants or grant agreements. Programmatic funding provided by the local government entities in Georgia to CSOs are normally utilized for the development of local culture, education, and sports, as well as for social protection, ecology and safe transportation support⁴². Due to the absence of the rules that regulate funding of CSOs by local government entities, practices vary from one municipality to another.

The information about funds allocated by Georgian local government entities to civil society organizations is given below:

Programmatic financing of civil society organizations by local self-government entities, several examples

N	Local self-government	2014	2015	2016	2017
1	Tbilisi city municipality	-	2 212 925	3 172 712	3 126 250
2	Batumi city municipality	-	-	172 721	28 788
3	Gori city municipality	51 133	137 186	264 866	54 673
4	Gori municipality	-	134 035	80 504	15 218
5	Zugdidi municipality	-	80 000	42 300	16 700

Table. N4

Data period from 2014 to May.

Source: Salamadze, Paniashvili *et al*, 2017.

To conclude, it should be highlighted that in 2009-2012, a unified state fund existed in Georgia⁴³. Its statutory purpose was to provide financial and institutional support to civil society organizations. The annual budget of the fund constituted around one million according to some sources. It funded 91 projects in 2009, in 2010-86 and in 2012 – 44 projects⁴⁴. While a unified mechanism for civil

⁴² *Ibid.*

⁴³ Civil Institutionalism Development Fund was founded on the basis of N223 Decree of the President of Georgia (11/05/2009), and N367 Resolution of the Government of Georgia (12/05/2009).

⁴⁴ Salamadze, Paniashvili *et al*, 2017.

society funding exists in numerous European countries⁴⁵, in 2013 the Georgian fund ceased its activities.

Its major shortcoming was believed to be the lack of independence, as well as the influence of state officials over fund activities. It must also be emphasized that the Ministry of Corrections of Georgia was designated as the initial founder of the fund. In 2011 the founder became the Ministry of Education and Science of Georgia and in 2012 – the Ministry of Defence of Georgia.

Non-profit law researchers point out that all these rearrangements coincided with the change of Ministers in respective Ministries. Due to the mistrust of civil society organizations towards the fund, the idea of its reinstatement is rejected.

The overview of state grant funding of civil society organizations revealed significant gaps in the system: (1) A unified legislative standards are not in place when it comes to state grant allocation, neither are those legal frameworks that would ensure transparency and accountability of the system; (2) the local self-government entities are forbidden to issue grants and the relevant legislation fails to recognize the possibility of inter-agency grants allocation; (3) State grants are issued for limited range of purposes and such important spheres as financial support of human rights activities by civil society organizations, remain ignored. Reforming these significant issues can introduce substantial improvements in the system of state grant allocation for civil society organizations.

Areas of the Reform in the System of State Grant Support for CSOs

(1) Principles and standards of grant process.

The main drawback in public funding system for civil society organizations is the absence of the uniform legislative standards. During consultation meetings that took place in the process of developing this paper, civil society organizations and non-profit law experts emphasized that the lack of legislative standards poses risks of diverting state grants for activities that are fueled by political interests. They highlighted that theoretically, the system without legislative regulations, enables political officials to allocate grants to politically loyal organizations and utilize financial mechanisms for winning their favor. According to some experts, absence of regulations in state funding system of grants has implications for financial corruption which may be expressed in the form of unjust deals between civil society organizations and the state or create conditions for personal gain. Besides, some civil society organizations that were involved in the development of this paper, asserted that they had never taken part in state grant competitions only because

⁴⁵ See. Shea C., Bullain N. *at al* 2010, *National Funds to Support Civil Society Organizations*, European Center for Not-for-Profit Law; Hadzi-Miceva Evans K., Golubovic D., 2011, *Public Funding for Civil Society Organizations – Good Practices in the European Union and Western Balkans*, European Center for Not-for-Profit Law; Hadzi-Miceva Evans K., Suplisson F., 2007, *Overview of State Funding Schemes for Civil Society Organizations*, European Center for Not-for-Profit Law; Latsabidze M., 2017. *State Funding Mechanisms for Civil Society Organizations in Georgia: International Practice Research*. Civil Society Institute.

receiving grants would subject them to undue control from the state. Introduction of general standards in state funding of civil society organizations should remove these risks.

When working on the subject of grant funding standardization, we attempted to maintain balance between excessive regulation and complete lack of it. As a result, we decided that the establishment of clear standards and principles would be the best way out of the existing situation. Thus, the process of state grant allocation would become trustworthy and transparent. At the same time, our goal was that individual state agencies were left with opportunities to streamline the process within the limits of suggested legislative standardization--in line with their constitutional and legislative jurisdiction, as well as the sphere of activities. Based on this approach, we believe that the Law of Georgia on Grants should regulate and ensure impartial and participatory decision-making, conflict of interests, and transparency issues in the process of state grant support. Some participants of the process from civil society organizations pointed out that the state funding system of grants may be regulated by a separate law. Participants from civil society organizations and non-profit law experts who took part in the development of this document, based on the best international practice⁴⁶, believe that the state grant should be issued as a result of the competition, and the decision on the financial support of specific initiatives should be made by a collegial body⁴⁷. Members of this collegial body, together with representatives of grant issuing state entities, should have the right to vote. They should represent trustworthy civil society organizations, and international organizations, as well as specialists from the relevant field. In the best-case scenario, both state and non-state entities should have equal representation in the collegial body and all decisions should be based on the majority of votes. It should be emphasized that the existing rules concerning grant allocation in some state entities such as the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, includes such component as invitation of international and local civil society organizations in the decision-making council. Besides, for impartial decisions, it is important that a special provision was included in the law on the conflict of interests. This would prohibit some individuals with direct or indirect vested interests, from participation in the decision-making process. Such legal constraint should affect both state or non-state actors with equal force.

International best practice shows, that before the announcement of call for applications, relevant state entity should define and publish information about the criteria according to which

⁴⁶ Shea C., Bullain N. *at al* 2010, *National Funds to Support Civil Society Organizations*, European Center for Not-for-Profit Law; Hadzi-Miceva Evans K., Golubovic D., 2011, *Public Funding for Civil Society Organizations – Good Practices in the European Union and Western Balkans*, European Center for Not-for-Profit Law; Hadzi-Miceva Evans K., Suplisson F., 2007, *Overview of State Funding Schemes for Civil Society Organizations*, European Center for Not-for-Profit Law; Latsabidze M., 2017. *State Funding Mechanisms for Civil Society Organizations in Georgia: International Practice Research*. Civil Society Institute.

⁴⁷ Important to mention, legal regulations in some of European Countries consider independent expert evaluation for each grant application. In this case, grant application is evaluated by two experts. In case these experts develop slightly different opinions, the application is evaluated by the third expert. After following procedure the final conclusion is made by decision making body. However, in other European countries evaluation and decision on grant application is made by only decision making bodies. The European Center of Not-for-Profit Law, suggests that in both cases it is extremely important that final decision is made by the decision making body which consists of state authorities and CSO representatives. See. Panov.L., 2018, *Brief on the Policy of Civil Society Organizations' State Funding Reform in Georgia*, European Center for Not-for-Profit Law.

applications will be evaluated. As well as that, in order to ensure credibility, it is important to ensure that all applicants receive feedback about the proposed project from the decision making body. Moreover, legal regulations in some countries oblige the state to consult CSOs and academic entities in the process of defining thematic areas of issuing grants.⁴⁸

Some civil society organizations that participated in the development of this paper, asserted that they had never taken part in state grants competitions, only because in case of grant reception, they would have to subject themselves to disproportionate state control. In addition, some state fund recipient civil society organizations argued that during the implementation of grant activities, grantor state entities would put forward complicated and often, unclear rules related to submission of reports of expenditure and financial documentation. They emphasized that receiving state grants typically complicates procedures of internal management within civil society organizations and increases bureaucracy. In response to this concern, it should be noted that spending public funds requires actions in accordance to procedures that are established by the legislation and a state grant recipient organization should be prepared for such responsibility⁴⁹. Although, civil society organizations claim that in order to prevent potential risks, state entities should provide timely, and comprehensive information about the rules of grant fund management, well in advance. It should be highlighted that grant issuer state entities not only provide such information to beneficiary civil society organizations, furthermore, they offer trainings in spending of public funds. Introduction of this practice in law could be a significant step forward in terms of increasing trust towards the state grant system.

Finally, to ensure transparency in state grants system, civil society organizations consider it vital that state grants were announced on the unified electronic platform, similar to current state procurement practice. In relation to this, it must be noted that in grant allocation procedures of the Ministry of Justice of Georgia, grant competition documents are published and proposals are accepted through the unified electronic system of state procurement. Clearly, the practice of Ministry of Justice of Georgia does not concern other grant issuer state entities. Henceforth, legislative initiation of this rule will result in giving legal validity to already existing good practice. In addition, collecting grants related statistics and information on one unified electronic platform that are currently scattered in various agencies, would enable these bodies and other interested parties to better coordinate their activities and base future grant policies on proper evidence.

(2) Local self-government and inter-agency grants

Giving authority to local-self-government bodies in Georgia to allocate grants has been repeatedly placed on the public agenda. During 2014 local self-government reform, some civil society

⁴⁸ Organization for Security and Co-operation in Europe (OSCE) considers participation of civil society organizations in identifying thematic areas is one of the most important aspect of transparent and accountable state granting system. See. Panov.L., 2018, Brief on the Policy of Civil Society Organizations' State Funding Reform in Georgia, European Center for Not-for-Profit Law.

⁴⁹ Notably, financial aid received from international funds are spent in line with the rules that are set by these international funds.

organizations addressed the Government of Georgia with the request to equip local self-governments with the right to issue grants. In response to this proposal, the central government has pointed to high risks of corruption. In general, the government considers that local self-governments are not ready for being handed such instrument.

It is worth considering that despite prohibitions in grant allocation for local-self-governments, they still provide financial support to civil society organizations. For instance, Tbilisi City Hall issued over 8.5 mln Georgian Lari for civil society organizations in the form of programmatic funding from 2015 to 2017 (See. Table 4). This research demonstrates that programmatic funding provided by local self-governments to civil society organizations is identical to typical state grants and the difference lies only in terms - not in substance. This type of funding issued by municipal authorities, is the major indication that the relevant legislation necessitates amendments. Without doubt, programmatic funding which lacks strict legal regulations, poses far more risks of corruption than involvement of local municipalities in existing grants system.

Those civil society organizations and non-profit law experts that participated in the development of this paper, believe that local self-governments should have the right to issue grants in line with the spheres that are assigned to their jurisdiction⁵⁰. Similar to the existing rules on Ministries, legislative regulations regarding allocation of maximum amount of grants from the approved budget, can be imposed on local self-governments too⁵¹. Besides, standards of grants allocation discussed above, should concern local self-government bodies as well.

Local Self-government Code of Georgia allows cooperation of a municipal entity with state bodies or other municipal entities⁵². There are several spheres that simultaneously fall under the joint management area of local self-governments and the central government, including such issues as the economic development of a municipal entity, employment, support of agriculture development, assisting domestic violence victims, elimination of homelessness, ensuring safe environment for humans, etc⁵³. While exercising its authority over these spheres, a local self-government may need collaboration with the central government which may be expressed in the form of joint state grant allocation, amongst others. Besides, implementation of some jurisdictions – for instance, provision of water supply and municipal waste management – may require collaboration and sharing of resources between several municipalities simultaneously. In order to exercise such authority, local self-government entities should be capable of issuing inter municipal grants.

Research of state grant funding for civil society organizations demonstrates that state bodies do not issue inter-agency grants. In other words, there has never been a case in administrative practice when two or more state bodies have allocated funds jointly for a civil society organization's

⁵⁰ Organic Law of Georgia, Local Self-Government Code (19/02/2014) a. 16.

⁵¹ According to N126 Resolution of the Government of Georgia, the total cost of annual state grants issued by separate Ministries cannot exceed 1 percent of their approved budgetary assignments. A. 1¹ (3). According to the same resolution, alteration of the pre-determined margin may take place with the consent of the Government of Georgia.

⁵² Local Self-government Code, a. 7.

⁵³ Local Self-government Code a.16 (4).

initiative. Despite the fact that the legislation separates powers of state bodies, there are numerous issues that require collaboration between state entities. Amongst such matters are for instance, agriculture development which might even require cooperation between several Ministries. When it comes to grant allocation for such spheres, state bodies should be able to announce joint grants competitions and fund initiatives together.

Streamlining these issues would be possible if small amendments were made into the Law of Georgia on Grants and the Local Self-Government Code of Georgia. Besides, amendment of N126 Resolution of the Government of Georgia might prove necessary as well.

(3) Thematic areas and purposes of a grant

Despite the legal authority which is provided to state bodies by the Law of Georgia on Grants, this research demonstrates that the list of eligible state entities that can issue grants is limited. Purposes of state entity allocated grants, differ from the content of grant activities but they are limited as well. For example, grants issued by the Ministry of Justice of Georgia are typically utilized for such objectives as assistance of persons in conflict with law and raising their awareness, re-socialization of criminal offenders, improvement of their social skills, support of their employment and entrepreneurial initiatives; Grants allocated by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia are directed towards the support of returned emigrants and improvement of internally displaced persons' livelihoods. Research into the administrative praxis reveals that unlike the best international practice, state bodies do not issue grants for purposes such as development of various policy papers, reform proposals or assessment of their own activities. Civil society organizations that participated in the development of this document, believe that such approach not only overlooks one of the most important areas of state funding but weakens efficiency of state body activities as well. Interestingly, elimination of this problem might not require legislative amendments. Instead it could be settled through the dialogue between civil society organizations and state entities.

Civil society organizations maintain that one of the major drawbacks of the current state grants system is the absence of financial support in it in favour of less prioritized human rights spheres. In best case scenario, state entities allocate grants for them for areas that are important at certain time. Consequently, development and support of those areas that don't fall into the the sphere of interest of political officials, remain without financial assistance. Quite often, the situation is aggravated by the fact that some areas – for example, protection of workers' rights and elimination of homelessness – do not get generous funding neither from international funds, nor from non-state – individual and corporate actors. Attracting funds for such causes requires disproportionate amount of effort or is impossible altogether.

Civil society organizations that were part of the development of this paper, believe that solution lies in adding a new grant issuing state institute in the Law of Georgia on Grants – the Public Defender. According to these organizations, Public Defender is a significant constitutional body which ensures parliamentary control, therefore, it is a key player in the state management system. On the other hand, it is sufficiently separated and distanced from state officials. Institutionally, the Public Defender has the authority to single out those human rights issues that require efforts from

civil society organizations. By adding the Public Defender on the list of grant issuing entities, state grant system will become capable of covering those areas that remain outside of state support – especially, given current conditions in Georgia where, unlike Eastern European countries, a unified fund of state grants is unavailable.

Civil society organizations maintain that all those standards that were discussed above should concern the process of grant allocation by the Public Defender, including such principles as elimination of conflict of interests, impartial decision-making, formation of a collegial body and transparency. It must be noted that involvement of a constitutional body in the system of state grants is not a novelty in Georgian legislation: Electoral Systems Development, Reforms and Training Center is the legal entity of public law under the rule of the Central Election Commission of Georgia.

Summarizing Comments

According to common perceptions, 95 percent of the civil society organizations' total income derive from international funding. Individual and corporate donations have hardly been established as stable financial sources for civil society organizations. Despite the fact that since 2009, state entities are eligible for issuing grants for civil society organizations, the state grant funding system itself is characterised as chaotic.

These indicators are noteworthy, even without analysing the additional data. However, the existing situation in terms of financial sustainability of civil society organizations, acquires alarming nature against the background of the paradigm shift in funding praxis of international donor organizations.

In recent years, international financial aid for Georgia has been decreasing. Non-profit law experts project that the trend will continue and international financial support will decline even further. Without doubt, the systemic reform of state funding scheme will become crucial.

In response to this challenge, our attempt was to point to main areas of reform in state funding for civil society organizations. The most important element in maintaining trustworthiness of state funding process would be establishment of legislative standards in state grant allocation. These new standards should concern all grant issuing state bodies without exception. The second aspect of the reform would entail involvement of local self-government entities in the state grants system and introduction of inter-agency grants allocation in legislation. Third area of the reform comprises thematic expansion of state grants and provision of fund allocation mechanism to the Public Defender in the sphere of human rights.

The group which has worked on this paper expresses its readiness to continue its cooperation with civil society organizations, and state bodies in order to assist the process of the improvement of the reform concept, as well as the efficacy of intended results.