

State Concept on CSOs' Development

Draft

Resolution of the Parliament of Georgia
on the Approval of the "State Concept on CSOs' Development"

Pursuant to Sub-Paragraph 'n' of Article 3 and Paragraph 4 of Article 192 of the Rules of Procedure of the Parliament of Georgia, the Parliament of Georgia has determined:

1. To approve the "State Concept on CSOs' Development".
2. To instruct the Government of Georgia to develop until 1 September 2015 the CSO Development Action Plan for 2015-2020 by considering the principles of the "State Concept on CSOs' Development".
3. This resolution shall enter into force immediately upon publication.

Chairman of the
Parliament of Georgia

David Usupashvili

**State Concept
on CSOs' Development**

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1. Introduction

Georgia's democratic development is hugely interlinked with empowerment of the civil society and civil society organizations ("CSOs"). Participation of CSOs in the decision-making process allows to include urgent problems on the political agenda and, thus creates basis for developing state programs built on tangible needs. Result-oriented partnership between the state authorities and CSOs can bring back authentic content to the state policy documents, and reflect the citizens' opinions and demands.

Significance of CSOs increases in view of the country's current challenges. On 27 June 2014, Georgia and the EU have signed the Association Agreement, which, among other issues, implies increased transparency and accountability of the authorities, introduction of good governance principles, and development of systems built on human rights and equality. Strong CSOs, as an organized part of the civil society and entities exercising influence over state policies, can play a critical role on the way to a full-fledged affiliation in the European family.

The Parliament of Georgia and CSOs have executed on 12 December 2013 the Memorandum of Cooperation, by which the Parliament of Georgia has acknowledged the role and importance of CSOs in protection of human rights and the country's socio-economic development. By the Memorandum signed by the Chairman of the Parliament of Georgia and over 200 CSOs, the country's legislative body has pledged to draft the State Concept on CSOs' Development with participation of stakeholders.

For the first time, Georgia is approving the State Concept on CSO Development - the key program document for the CSO development policy over next eight years. Present Concept is tasked to place CSOs in environment that makes their free development and participation in solution of issues of state importance possible. This Concept aims to set up an institutional and financial environment required for CSO development and boost the degree of their participation in planning, implementation and evaluation of the country's ongoing processes.

2. Principles and Values of the State Concept on CSOs' Development

By taking into account international standards, the state policy on CSO development is based on the following key principles:

a) Independence -

CSOs carry out their activities independently, in line with their mission and values, without interference of the state authorities;

b) Equality -

CSOs are equal and the state authorities set up equal environment in all potential areas of their work;

c) Partnership -

State authorities view CSOs as partners and develop effective mechanisms of relations with them;

d) Participation -

CSOs participate in the decision-making process and are able to submit their opinions with relevant state authorities, while the state authorities pay due attention to submitted opinions;

e) Transparency -

Relationship between CSOs and the state authorities is transparent and open for all stakeholders;

f) Effectiveness -

Regulatory environment of CSOs ensures effective performance by CSOs and the diversity of funding sources;

g) Consulting -

Regulatory legislation of CSOs is amended only as a result of active consultations with broad spectrum of CSOs.

3. Assessment of Current Situation

Under the official data, there are over 18 thousand non-profit (non-commercial) legal entities registered in Georgia, but only few of them are functional and even fewer of them manage to pursue sustainable organizational development.

Legislative amendments made in recent years have improved functioning environment of CSOs. An organization's founding and management-related regulations were simplified and brought closer to the world's best practices. As numerous conclusions or reports of international organizations have noted, the state does not set up administrative barriers for CSOs in their activities. While drafting the studies and reports, CSOs usually have access to public information available in public institutions. They do not have to state a reason or motive behind requesting the information.

Tax legislation of Georgia exempts the grants and donations received by CSOs from taxation, but apply the same approach to their economic activities as to business entities. Auxiliary economic activities of CSOs are not encouraged by the state. Moreover, numbers of tax regulations impose a better regime for entities with entrepreneurial goals compared to CSOs.

Legislation of Georgia defines the status of a charity organization. Nevertheless, number of CSOs enjoying this status does not exceed 60. Lack of benefits associated with a charity organization status does not make it attractive to obtain and preserve it. The tax deductible donation mechanism included in the tax legislation, which should have encouraged businesses to financially assist CSOs, failed to work primarily owing to its formal nature. Business and CSOs do not perceive each other as allies and level of interaction between them is low.

Majority of CSOs do not use volunteer work in their activities. This is owed somewhat to absence of regulatory and promotional provisions on volunteering. Legislation of Georgia is silent on the status of a volunteer and hence tax and non-tax benefits linked with this status.

Grants received from international organizations and foreign governments remain a major source of funding for CSOs. Although from the end of 2011 the ministries are authorized to issue state grants, majority of the ministries have not issued a single state grant until now. Further, self-government authorities still do not have the right to issue grants, which lowers the chances of fund-raising for local CSOs with the small funding opportunities as it is.

Partnership and dialogue between CSOs and the state authorities is non-institutionalized and occasional. Councils for cooperating with CSOs and similar structures set up in various agencies are functioning formally. Despite success cases, a dialogue with CSOs may depend on numerous non-objective circumstances. There is no uniform approach except from the political officials' declarative and oral statements, which would have obligated state authorities to have a systemic dialogue with CSOs. Hence, conducting a participative process

and using effectively the intellectual and financial resources mobilized in CSOs is not achievable.

4. Process of Drafting the State Concept on CSOs' Development

The Parliament of Georgia undertook an obligation to draft the State Concept on CSO Development on 12 December 2013, when the Chairman of the Parliament has ceremoniously signed the Memorandum of Cooperation. Along with enactment of the Memorandum, CSOs have set up a working group for drafting the Concept, which included representatives of active CSOs (including regional organizations of Georgia) and parliamentary majority and minority. Conducting a participative process was one of the key tasks of the working group.

Study of international practices and local needs has preceded the drafting of first version of the Concept. The working group has studied and analyzed documents with similar objectives and tasks adopted in the United Kingdom, Canada, Estonia, Moldova, Latvia, Poland, Netherlands, Croatia and Hungary. In parallel, problems that Georgian CSOs and initiative groups encounter in their activities or relations with the state authorities have been identified.

The working group has prepared the initial draft of the Concept in June 2014 and organized discussions over it in 8 cities of Georgia (Tbilisi, Kutaisi, Batumi, Telavi, Gori, Akhaltsikhe, Ozurgeti and Zugdidi) with local civil activists and representatives of the local authorities and CSOs. In addition to regional meetings, the Concept was examined as part of the *Georgian National Platform of the Eastern Partnership Civil Society Forum*, which unites over 170 CSOs. The working group was noting down all opinions, all concerns and views of the meeting participants. After all, over 300 CSOs have participated in examination of the Concept. In addition, the *European Center for Not-for-Profit Law* was asked to produce an opinion on the draft Concept.

In view of comments and expert recommendations provided at the meetings, the working group has amended the Concept and once again started receiving comments, this time in an electronic form. A final version, which aimed to harmonize the opinions of all stakeholders, was submitted for consideration to the Parliament of Georgia in December 2014.

5. Objectives of the State Concept on CSOs' Development

The State Concept on CSO Development aims to foster civil initiatives, set up a development-focused environment for CSOs and ensure their real participation in the decision-making process.

To achieve these objectives, the Concept provides for:

- a) Improvement of enabling environment required for a full-fledged functioning of CSOs by amending the legislation;
- b) Improvement of financial environment for CSOs by expanding the funding sources, developing legislative mechanisms of state funding, and promoting the auxiliary economic activities of CSOs;
- c) Fostering of partnership between CSOs and entrepreneurial entities by introducing models used in international practices and launching relevant programs;
- d) Fostering and supporting civil initiatives by introducing institutionalized mechanisms for supplying such initiatives prior to decision-making;
- e) Increasing CSO participation in the development, planning, implementation and monitoring of the state policies by developing and introducing relevant mechanisms;
- f) Encouraging volunteering by forming the relevant legislative base and launching programs aimed at promoting volunteering.

6. Future Vision

6.1. Civil Society Organizations

For the purposes of the present Concept, a civil society organization includes:

- a) Organizations with the status of a non-entrepreneurial (non-commercial) legal entity, which perform publically beneficial work;
- b) Organizations operating under a different legal form, whose charter-declared objective is to perform publically beneficial work or support publically beneficial initiatives;

c) Citizen unions and initiative groups without legal registration, which perform publically beneficial work.

Religious unions, political parties, and the legal entities or unions established by the state and local authorities, which are directly or indirectly controlled by the state and local authorities, are not considered as CSOs for the purposes of the present Concept.

6.2. Enabling Institutional and Financial Environment for CSOs

The state sets up an enabling institutional and financial environment required for full functioning of CSOs, which, among others, includes:

- a) Support of volunteer activities and development of programs promoting volunteering;
- b) Define the status of a volunteer and its legal protection regime;
- c) Impose tax and other benefits associated with a volunteer status;
- d) Promote individual charity activities;
- e) Promote corporate charity and other philanthropic practices;
- f) Support of the auxiliary economic activities of CSOs and social entrepreneurship;
- g) Impose a preferential tax regime with respect to the auxiliary economic activities of CSOs;
- h) Introduce a transparent, effective and permanent mechanism for the state grant funding;
- i) Authorize local self-governments to issue grants;
- j) Ensure cooperation of the state authorities and CSOs in provision of social services.

6.3. CSOs' Participation in the Decision-Making Process

The state undertakes an obligation to develop an integrated approach and strategy of cooperation with CSOs, which will be mandatory for the state authorities and officials. In discharging their powers, the officials determining and implementing state policies:

- a) Timely inform CSOs about the examined issues, by indicating their form of participation and other rights;
- b) Ensure attendance of CSOs at important decision-making;
- c) Receive and timely consider the initiatives and petitions of CSOs;
- d) Provide all possible and reasonable assistance to CSOs in drafting of the studies and reports on discharge of public powers.

The Parliament of Georgia, as the body determining the country's foreign and domestic policy, shall set up an institutional mechanism for a dialogue with CSOs - the Public Council of the Bureau of the Parliament of Georgia, which will observe the following rules:

- a) The Council will serve as a platform for communication between the Parliament of Georgia and CSOs;
- b) Mechanism for setting up and functioning of the Council will be outlined in its regulations, to be approved by the Bureau of the Parliament of Georgia. CSOs will be actively involved in drafting the regulations;
- c) The Bureau of the Parliament of Georgia will organize at least two meetings with the Public Council in the course of each parliamentary session.

7. Implementation and Evaluation of the State Concept on CSOs' Development

The Government of Georgia is a responsible body for implementation of the State Concept on CSO Development, which will develop an Action Plan for implementing the Concept initially for 2015-2018, and subsequently for 2018-2023.

The Government of Georgia will develop an Action Plan for implementing the Concept with broad involvement of CSOs, implying the participation of all interested parties including the regional CSOs. The Government of Georgia will pay due attention to the opinions of CSOs and other parties when developing the Action Plan.

The Public Council of the Bureau of the Parliament of Georgia will evaluate the implementation of the State Concept on CSO Development. Prior to setting up the Council, this authority will be granted to a group of CSOs designated by the Chairman of the Parliament of Georgia, which he approves after consulting with the Public Defender.