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The EU's Lessons for Supporting Civil Society in Member States

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Summary

In recent years, the European Union has suffered from democratic backsliding and the erosion of the rule of law as well as from a weakening of other fundamental values, particularly in the Central and Eastern European member states. At the same time, the EU has been doing more and is better equipped in terms of funding, capacity, and tools to respond to the shrinking space for civil society outside of its territory than inside. This discrepancy is above all caused by a general lack of political will and resistance to intervention by the EU institutions within member states.

However, this situation seems to be changing and—despite the coronavirus emergency—the European Commission appears to be now prepared to tackle the issue through a combination of legislative and non-legislative measures, including the EU Action Plan for Democracy, the Rights and Values Program, the Media Action Plan, and the Digital Services Act. This paper analyzes the tools and instruments that the EU uses to support civil society in three associated countries (Ukraine, Georgia, and Moldova) and looks for examples of good practice and innovative solutions that can be applied to the EU itself.

This paper offers recommendations to bolster the EU's democratic governance, rule of law, and other fundamental values by supporting civil society, which is a key ally in this process. They relate to the design of the Rights and Values Program, conditionality, and the restoration of the status of civil society, and the operational side of the EU's engagement with civil society.

The Multiannual Financial Framework for 2021-2027 will determine whether the EU is serious about its values and civil society and whether it is going to devote sufficient financial resources to them, despite the countervailing pressure from some member states as well as the urgency to deal with other priorities related to the coronavirus pandemic.

Civil society can help restore civil rights and fundamental freedoms inside the EU, and the EU's previous experience with external tools and instruments can make a meaningful contribution to that. The EU should analyze and try to replicate the largely positive experience from the European Instrument for Democracy and Human Rights and the European Endowment for Democracy, which support civil society in its neighborhood and the world. For example, the EU has now no specific tool to support human rights defenders internally, and it should have a flexible and swift response mechanism out of the hands of EU member states to provide operational support to civil society under threat. The EU should also work smartly with conditionality, and it should have the possibility to stop the funding to the national governments, or to redirect it to pro-democracy and pro-reform groups in member states in cases of severe democratic backsliding and erosion of the rule of law. Finally, the EU should bolster its presence in member states and substantially increase its communication and interaction with groups upholding its core values, including civil society, independent media, and other pro-EU circles in society.

Introduction

While the European Union tries to tackle the coronavirus pandemic and its consequences, one element is missing from the picture: support for democracy and the restoration of civil rights and fundamental freedoms. It is particularly surprising that within the EU, a leading global actor in providing support to democracy, the tendency in recovery plans has been to focus on health protection, the economy, ecological and digital transitions, or the industrial sector, but to play down fundamental values.¹ While it is still too early to say what the final plans will look like, including inside the European Commission or in the next EU budget, the Multiannual Financial Framework until 2027 or the Next Generations EU funds, it is clear that priority will be given to other areas and to saving the economy. This is shortsighted and it will damage the cohesion of the EU in the coming years. While the EU did develop some ambitions for supporting democracy and upholding its values withing member states before the crisis—for example, through the Democracy Action Plan, the Rights and Values Program, the Media Action Plan, or the Digital Services Act²—the danger remains that these initiatives will be downgraded due to bigger priorities for keeping the union together.

It is to a large degree artificial to separate the EU's policies inside and outside of its borders when it comes to the support of democracy and civil society.³ Many negative and positive tendencies happening outside the EU can also be observed within it. This is especially true for the shrinking space for civil society, the silencing of independent media, the pressuring of political opposition, and the limiting of pluralism in some member states. This is the case for some countries of Central and Eastern Europe (CEE), such as

Hungary and Poland, but the same trends can be seen elsewhere too.

This paper looks for examples of good practice and innovative solutions among the EU's external tools and instruments, and to bridge the gap between the EU's policies inside and outside. It looks at Georgia, Moldova, and Ukraine, three countries in the eastern neighborhood that are the closest partners outside of the EU and are not going through the pre-accession talks negotiations. The paper presents examples of best practice as well as limitations that the EU has faced in its neighborhood when trying to realize its agenda of bringing stability, security, and prosperity as well as supporting civil society. It then suggests how these lessons can be used to fine-tune the EU's support for democracy and civil society in member states.

Based on interviews in the EU and the eastern neighborhood as well as desk research, the paper first presents a summary of the EU's external tools and instruments for supporting civil society. It then looks at positive practices and innovative solutions in Moldova, Georgia, and Ukraine that delivered good results and contributed to an enabling environment for civil society and empowering it to act. Third, the paper identifies problems with and limitations to the EU's external engagement with civil society. Finally, it highlights the most important innovative solutions and cases of best practice from Eastern Europe that can add value to the EU's situation at home.

EU Tools and Instruments

The EU is the largest provider of external assistance in the world and its external financing instruments (EFIs) constitute the most significant tools to achieve the goals of its global strategy released in 2016.⁴ During the past budget period of 2014–2020, the EU dedicated 6 percent (€66 billion) of its budget to the Global Europe category, which covers issues from development cooperation to international trade, humanitarian aid, external tools

1 Richard Youngs, [Democracy is the Missing Link in EU Coronavirus Recovery Plans](#), Carnegie Europe, 2020.

2 Pavel Havlíček, [The EU Must Learn from its Work Abroad to Support Civil Society at Home](#), German Marshall Fund of the United States, 17 April 2020.

3 International IDEA, [The Global State of Democracy 2019: Analysing the Ills, Reviving the Promise](#), 2019.

4 European External Action Service, [A Global Strategy for the European Union's Foreign and Security Policy](#), 2016.

and instruments, among other things.⁵ The Multiannual Financial Framework for 2021–2027 that is being negotiated is expected to result in the creation of a new financial instrument called the Neighborhood, Development and International Cooperation Instrument,⁶ and to affect the other EFIs and well as relations with the Eastern Partnership (EaP) countries.

The EU disposes of a variety of thematic and regional tools and instruments to achieve its goals in its eastern neighborhood (See Table 1). There are, however, no equivalents for some of these in the EU itself; for example, those related to support for human rights defenders. The European Neighborhood Instrument (ENI) has been the biggest of all the EU's financing instruments available for the EaP countries (see Figure 1). Five percent of its budget is earmarked for direct bilateral support to civil society, and a further discretionary 10 percent that can also do so, among other things.⁷ The ENI is especially important for the associated countries since it provides political and financial conditionality and “hooks” that can be used by CSOs to pressure governments to make reforms.⁸ In the past, the EU applied the principles of “more for more” and “less for less” in its dealings with the EaP governments more intensively, but the latter was dropped after the 2015 revision of the EU's eastern policy due to its limited effectiveness and questionable results.

The European Instrument for Democracy and Human Rights (EIDHR) aims to bolster democracy, electoral processes, and EU values as well as to empower human rights defenders around the world (see Figure 2). Out of just over €160 million a year

spent through this instrument,⁹ around 90 percent is distributed to civil society via open calls for support organized by the EU delegations in third countries. The EIDHR has proved to be a rather decentralized, responsive, and target-oriented tool that delivers good results, even if it is modest in terms of funding. The experience from the EaP countries shows that the EIDHR complements well the rapid response-driven nature of the European Endowment for Democracy (see below) and empowers the EU delegations to respond to the local context in their distribution of the funds through targeted calls.

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The Development Cooperation Instrument (DCI) also promotes democracy and human rights and devotes around 5 percent of its budget to civil society. This is particularly aimed at building the capacity of CSOs and local administrations, and it allows exchanging the best practices in this field from around the globe. In the past, however, there have been problems with the complementarity of this instrument with the remaining ones, especially since they were managed by different directorates-general in the European Commission.

Finally, the European Endowment for Democracy (EED) has since its creation in 2013 provided 982 demand-driven grants, starting from 168 during 2013/14 and increasing up to 260 in 2019. In addition, it has poured millions of euros into CSOs and other pro-democracy actors, including individuals and unregistered entities, in the neighborhood.¹⁰ It

5 European Parliament, [Multiannual Financial Framework](#), 2019.

6 Ken Godfrey and Richard Youngs, [Towards a New EU Democracy Strategy](#), Carnegie Europe, 2019.

7 Richard Youngs, [EU Support to Civil Society in Turkey, Ukraine, and Egypt: Mapping Reforms to the External Financing Instruments](#), European Parliament Research Service, 2018.

8 Leuven Centre for Global Governance Studies, [Challenges to the Effectiveness of EU Human Rights and Democratisation Policies](#), Framework Package 12 (3), 2016.

9 Godfrey and Youngs, [Towards a New EU Democracy Strategy](#).

10 European Endowment for Democracy, [Annual Reports 2015-2019](#).

Table 1. Characteristics of EU External Financing Instruments in 2014-2020 MFF

| EU External Financing Instrument | Amount Earmarked for 2014-2020 MMF (in €) | Scope | Objective |
|--|---|---|---|
| European Neighbourhood Instrument (ENI) | €15.4 billion | European Neighbourhood Policy Countries | Support to the EU's Neighbourhood Policy |
| Instrument for Pre-accession Assistance (IPA II) | €11.7 billion | Candidate and Potential Candidate Countries | Support to the EU's Enlargement Policy |
| Instrument Contributing to Stability and Peace (IcSP or ISP) | €2.4 billion | Global | Support to EU Activities Relating to Conflict Prevention and Management |
| European Instrument for Democracy and Human Rights (EIDHR) | €1.3 billion | Global | Promotion of Human Rights and Democracy in Third Countries |
| Partnership Instrument (PI) | €0.96 billion | Global | Support to the External Dimension of EU Internal Policies (e.g. Migration) and to Address Global Challenges (e.g. Energy, Climate Change) |
| Development Cooperation Instrument (DCI) | €19.6 billion | Developing Countries in Asia, Africa, and Latin America | Eradication of Poverty |

Source: Isabelle Ioannides (ed.), *EU external financing instruments and the post-2020 architecture: European Implementation Assessment*, European Parliamentary Research Service, 2018.

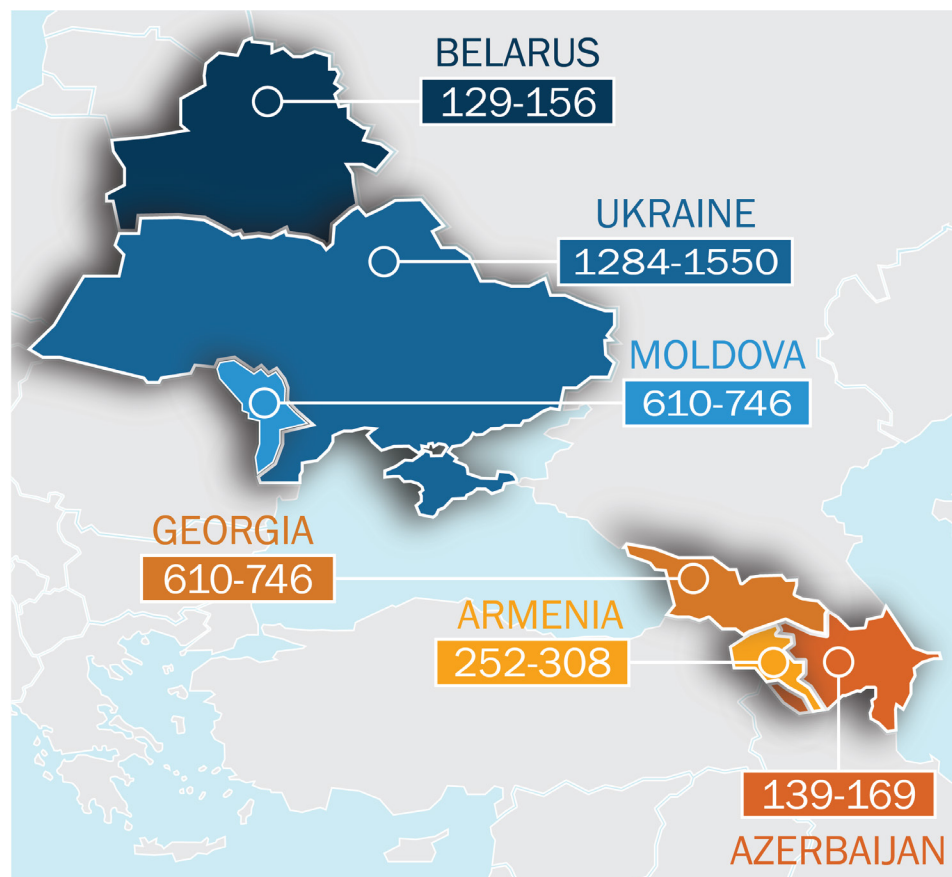
has proved to be innovative, confidential and able to respond rapidly in support of civil society, as well as complementary with other EU instruments.

The EU's Holistic Approach

One of the most positive elements of the EU's interaction with civil society in the eastern neighborhood is that there is a clear public recognition of the two sides' strategic alliance in promoting the EU's overall goals.¹¹ The original Prague Declaration of the EaP recognized the relevance of civil society and recommended the establishment of the EaP Civil Society Forum, which serves as the main channel of communication between the EU institutions and civil society in the region. Since its establishment, it has become more inclusive in terms of civil society representation and empowered when having a stronger capacity to act on behalf of the EaP's civil society in the EU decision-making process. Until today, the forum is the only civil society organization that is officially represented during the work meetings EU Council and European Commission.

This overarching notion of having a reliable, resilient, and competent ally on the ground is crucial for understanding the EU's behavior toward civil society in the EaP countries. That is why the EU has established and improved its numerous tools and instruments to

Figure 1. Allocation of European Neighborhood Instrument Funds to Eastern Partnership Countries, 2014-2020 (€ Millions)



Source: Richard Youngs, *New Directions for EU Civil Society Support: Lessons from Turkey, the Western Balkans, and Eastern Europe*, Carnegie Europe, 2020.

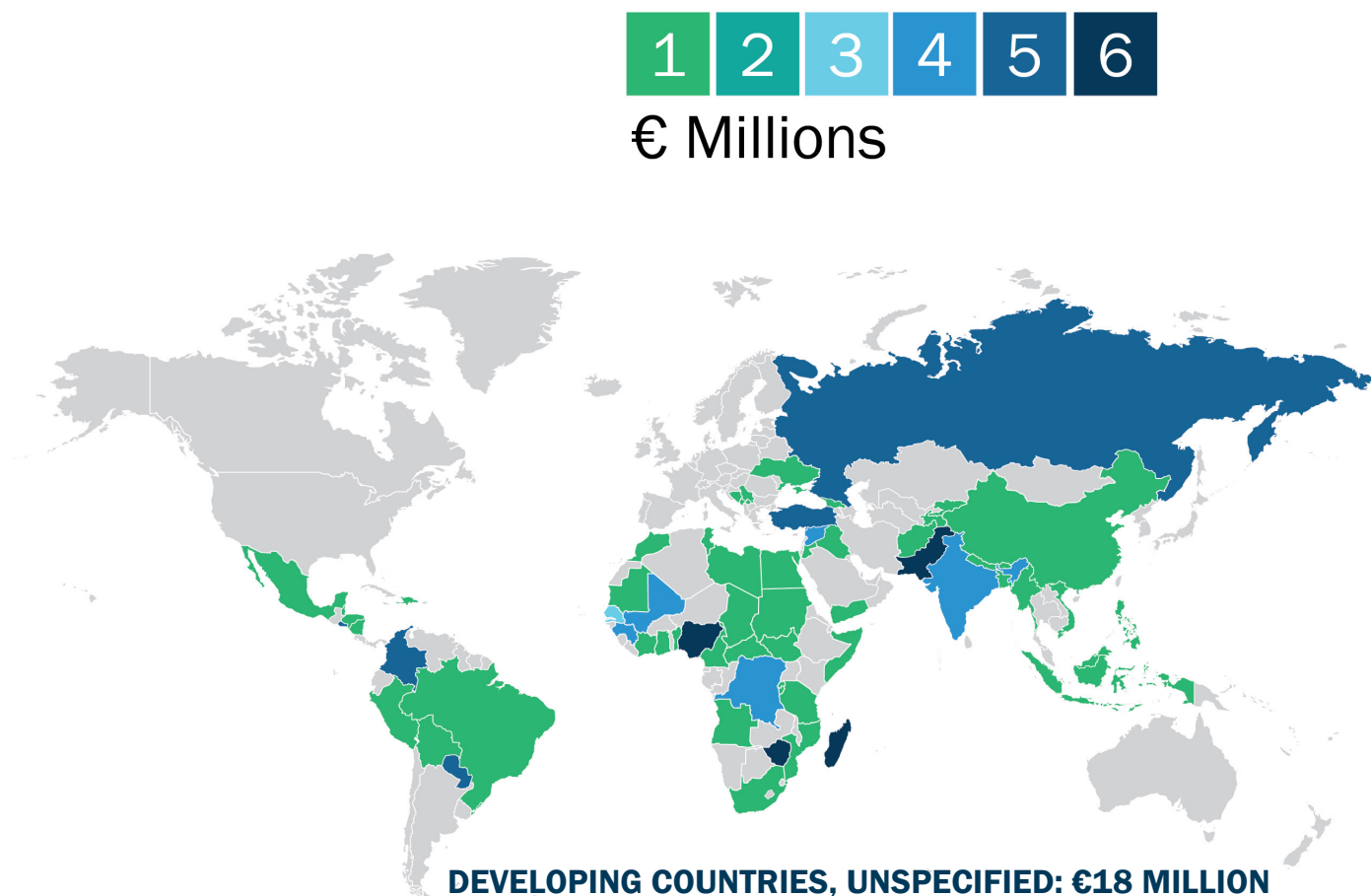
Note: *Approximation based on two data sets. ("EU-Ukraine Relations Factsheet," European External Action Service; "Single Support Framework for EU Support to Ukraine for 2018-2020," EU Commission).

support and interact with civil society.¹² The EU delegations are the primary contact points for interaction with civil society to exchange notes on current developments or to coordinate and cooperate on how to best facilitate reforms and the modernization of the six countries. This is part of the association agenda or the partnership priorities agreed on a bilateral basis. The European Commission, through the Directorate-Gen-

11 Council of the European Union, [Joint Declaration of the Prague Eastern Partnership Summit](#), 2009.

12 European Partnership for Democracy, [European Democracy Support in Armenia: A Case Study Reviewing European Democracy Support](#), 2019.

Figure 2. Recipients of European Instrument for Democracy and Human Rights Funding



Source: Richard Youngs, *New Directions for EU Civil Society Support: Lessons from Turkey, the Western Balkans, and Eastern Europe*, Carnegie Europe, 2020.

eral for European Neighborhood Policy and Enlargement Negotiations (DG NEAR), and the European External Action Service (EEAS) are the main bodies responsible for monitoring and evaluating progress, including through feedback from within countries as well as from advocacy groups based in Brussels and elsewhere civil society.

The EU has also over time established additional channels of strategic communication, coordination, and cooperation with the EaP countries. In Ukraine, for example, the EU Advisory Mission is responsible for helping the authorities to implement the association agenda, while the Support Group for Ukraine (SGUA) within the European Commission in Brus-

sels streamlines the latter's work on the country. These institutions have been very responsive to civil society's concerns. A similar body to the SGUA was re-established for Moldova after the change in government in June 2019. Other relevant EU bodies include the EU Border Assistance Mission in Ukraine and Moldova, the office of the Special Representative for South Caucasus, and the monitoring mission in Georgia. While there has been criticism of the efficiency of some of these bodies,¹³ the streamlined support of the EU, modelled on the SGUA, has been generally

13 Institute for Security Studies, *The Eastern Partnership a Decade On: Looking Back and Thinking Ahead*, 2019, 11.

praised as highly professional, efficient, and showing a high level of flexibility and tailored-made approach.

The EU uses these bodies to promote its priorities and values as well as to support champions of change on the ground, including in civil society, local administration, small or medium-sized enterprises (SMEs), and independent media. In some of the EaP countries, the EU has mainstreamed and facilitated civil society participation in dialogues with the government. In the case of Belarus, for example, EU-supported CSOs worked well with the Ministry of Social Affairs on developing the social contracting legislation.¹⁴ But despite its different successes in pressuring governments through political and economic conditionality and public diplomacy, the EU has so far failed to prevent repression and violence against civil society.¹⁵

Overall, the cases of Moldova, Georgia, and Ukraine offer positive examples of the EU's engagement with civil society to support the latter's role in decision-making processes and interaction with state authorities during certain periods, but the EU has so far never managed to maintain the momentum for a long time.

The Sandwich Effect

One of the concrete examples of the EU's tactics of successful engagement with civil society is through the "sandwich effect"—that is, the combined pressure by external and domestic actors in advocating for a common goal.¹⁶ The implementation of demanding and often painful structural reforms, including those associated with approximation with the EU, require a high level of political will. They usually also face resistance from domestic and external veto players not interested in the political, economic, and societal transition of the EaP countries.

The sandwich effect is only possible when there is a strong political or financial incentive from the donor community (for example, loans from the International Monetary Fund or a visa-free regime with the EU). External and domestic actors also need to have a powerful and united campaign. The whole process requires a high level of coordination between local civil society and other domestic actors and international actors on the other hand. They need to support each other in exercising pressure on and putting strong arguments to national decision-makers; for example, by organizing public campaigns and appeals, initiating petitions, or conducting high-level advocacy. International actors also need these domestic actors to explain the benefits of reforms to society at large.

Over the years, the EU has together with local civil society pushed for very important changes in EaP countries. This was particularly the case in post-Maidan Ukraine, or in the "front-runner" periods when the Moldovan and Georgian governments were delivering on reform promises made to the EU, which saw high levels of convergence between expectations of the EU and the domestic policy agenda. In each of these cases, ruling elites were willing to accept and follow a pro-reform course that was closely connected to popular needs and expectations to deliver on the promises made to the EU and local societies in moving countries closer to the union.

For example, a visa-free regime was mentioned as the most significant conditionality serving as leverage or a "hook" that Georgia's civil society could use to achieve a positive change at several levels, including the adoption of a deeply controversial anti-discrimination law. In Ukraine, the launch of the National Anti-Corruption Bureau or the establishment of the Anti-Corruption Court and of the pro-transparency tool ProZorro are successful examples of the sandwich effect based on an International Monetary Fund program and macro-financial support led by the EU. A similar development took place in Moldova when key reforms were implemented, as demanded by the EU and citizens. It is, however, not always the case that the international community and the EU can create such

¹⁴ Youngs, EU Support to Civil Society in Turkey, Ukraine, and Egypt.

¹⁵ McCourt and Kazatchkine, "Five Steps the EU Must Take to Protect Civil Society."

¹⁶ Rosa Balfour, Nicolas Bouchet and Joerg Forbrig, [Improving EU-U.S. Cooperation in Civil Society Support in Eastern Europe and the Western Balkans](#), German Marshall Fund of the United States, 2019.

“hooks” that local civil society can use to advocate for changes. In general, what proved successful for mainstreaming civil society was to marry the EU funding to it with a pro-reform agenda and/or macro-financial and technical assistance that stimulated the pro-reform action.

The EU’s Toolbox

The EIDHR illustrates the “flexible, reactive, adaptable to changing circumstances, acting confidentially, and providing tailor-made”¹⁷ approach of the EU to these issues in different contexts. Under it, the program Protectdefenders.eu has so far provided emergency support to more than 10,000 activists.¹⁸ This instrument is designed to primarily respond to crises and operates without the consent of the national authorities through regular “call for proposals” organized by EU delegations. It works as a rather flexible (including subgrants) and discrete tool with simplified administrative procedures, including for unregistered actors.¹⁹ The EIDHR also allows for conducting advocacy and in-country lobbying with the national authorities. Its added value lies in offering support for multiple years and across wider territories as well as the fact that it is fully decentralized to EU delegations, which can easily use its financial resources on emergencies. Finally, it is the only EU instrument that directly covers election observation missions as one of its priorities.

Funded by the EU institutions, the EU member states, and third parties such as Norway, Canada, and Switzerland, the EED is a grant-making organization to “support the unsupported.” As a gap-filling financial instrument, its mission is to promote democracy and pluralism in the EU’s neighborhood. Its added value lies in being a flexible and emergency response to crises on a rolling basis (unlike the EIDHR) as well as offering a discreet and sensitive way of intervening in local contexts, also without the consent of national

authorities. With a yearly budget of €5-6 million²⁰ and a loose mandate, it can bear much higher risks than other EU instruments. For example, the EED might provide financial support starting from several thousand euros to financing a completely new organization, as well as devoting rather substantial amounts to saving a well-established CSO under pressure from a government—all of this operating with simplified administrative procedures and in local languages. Thanks to a system of country-based consultants, the EED can offer a tailor-made approach and solutions, including coaching beneficiaries, and it can have a very good understanding of the situation on the ground. Finally, its flexible mandate allows it to accept certain political and social sensitivities that often prove too complicated for other instruments, which makes it an interesting example to follow when designing a swift and efficient supporting mechanism for civil society in the EU itself.

Georgia, Moldova, and Ukraine, and their civil societies, benefit from the ENI, the EIDHR, the EED. They have also been supported through the DCI (particularly the CSOs-Local Administration thematic program), the Instrument contributing to Stability and Peace, and ECHO, the humanitarian relief program run by the Directorate-General for European Civil Protection and Humanitarian Aid Operations, formerly known as the European Community Humanitarian Aid Office.

Established by the Lisbon Treaty in 2009, there are now over 130 EU delegations around the world. Their mission in the EaP countries is to promote political and economic integration, monitor the implementation of the EU agenda, and promote strategic communication. In 2014–17, the EU substantially increased its financial backing for civil society in Ukraine from €12 million (2010-13) to €20 million until 2017 through the ENI, the DCI, and the EIDHR.²¹ The EU delega-

17 European Parliament 2018, 23.

18 Godfrey and Youngs, Towards a New EU Democracy Strategy.

19 Ibid.

20 Marie Ullmann and Morgan Ross Courtney, “[Bridge to Democracy? The Role of EIDHR and EED Funded Democracy Projects in Armenia](#),” EDP Wire, 2017.

21 See Youngs, EU Support to Civil Society in Turkey, Ukraine, and Egypt.

tion has provided strategic support to several big CSOs and consortiums of CSOs, including the Reanimation Package of Reforms that until recently included close to 200 reform-minded organizations and represented the most inclusive and comprehensive civil society force in Ukraine after the Revolution of Dignity. The united and representative campaigning, coordination, and collaboration was the main added value of this semi-structured coalition, which was able to deliver its expertise to the highest levels of Ukraine's decision-making process, in close coordination with the EU. EU political and financial support helped the RPR become more professional in delivering its expertise to policymakers and in advocating for change. There are many more such successful examples in all three countries looked at here.

The principle of “smart conditionality” can be broadly defined as putting forward conditions or expectations from the partner country that needs to be met to keep receiving macro-financial and technical assistance or other policy concessions. At the same time, this requires having an alternative to cooperation with the central government, if the situation calls for it. A good example is Moldova where, due to years of democratic backsliding and state capture, the EU applied smart conditionality²² and shifted its support from the central government to civil society, the independent media, SMEs, and local action groups, particularly in the regions. The EU showed a high level of flexibility in transferring a relatively substantial amount of funding to third and regional actors through sub-granting in cooperation with the donor community in Moldova. The EU provided financial support of up to €60,000 (but usually much less) to a wide circle of actors outside of the capital and switched its support from the “usual suspects” to the grassroots in the regions, which were often missing any kind of local activism. It hit two birds with one stone: it demonstrated its unwillingness to tolerate undemocratic practices and the misuse of funds for

the personal benefit of a few, and it kept the designated funds in Moldova and benefitting the citizens. The EU was successful in reaching out to and supporting a wider pool of candidates, often of a start-up nature. It now runs, through implementing partners, three large sub-granting schemes on good governance, public health, and SMEs and business.

Where the EU Fails

While the EU has been the biggest external partner and donor for Georgia, Moldova, and Ukraine, it has not always been successful in achieving its goals and promoting its message, at least as perceived by their citizens. One side of the story is related to strategic communication and also to the fact that the EU has not always been very efficient when investing in EaP countries and their reform processes, particularly when it comes to the rule of law or the fight against corruption. The EU support for local CSOs lacks components, which limits its work on the pro-democracy agenda. The following sections explain why and what is missing to make the EU's support more efficient.

The One-size-fits-all Principle

Since the beginning of the Eastern Partnership in 2009, the policy has been criticized for not having enough solutions that are differentiated and tailor-made for individual EaP countries. While this has gradually changed and the EU now has different priorities with individual countries, some of its tools and instruments to an extent still treat the region's countries as the same. In the past, the EU has approached the EaP uniformly and often enforced its will on partner countries, particularly related to its bigger priorities of security and migration. The recent European Commission's communication²³ on the future of the EaP beyond 2020 retains some of this attitude, namely putting the green transition—a new priority of the EU—high on

22 Institute for Security Studies, 2019, 110.

23 European External Action Service, [Joint Communication: Eastern Partnership Policy beyond 2020: Reinforcing Resilience – An Eastern Partnership that Delivers for All](#), 2020.

the agenda, even if it is going to be immensely complicated to implement across the EaP countries. This kind of uniformity is partially reflected in pro-democracy support too, where this is more continuity than change.²⁴ The EaP countries also face their specific challenges that require an appropriate toolbox on the part of the EU, including expertise and capacity as well as financial resources to tackle various problems.

Sometimes the European Commission—especially when it comes to grant-making and supporting civil society—approaches not only Georgia, Moldova, and Ukraine, but also Azerbaijan and Belarus with the same rules and approach. Both these latter countries are notorious for their repressive regimes and closed environment for civil society organizations. The rigid structure of the EU's support for civil society²⁵ prevented a bigger pool of CSOs from applying for EU help. According to the European Commission's guidebook for public tenders, EU support can only go up to €60,000 for calls in the sub-granting mechanism. It is often the case that organizations must have at least two years of experience in the field and be registered with the authorities to be eligible, which disqualifies many smaller or newer organizations from applying. But it is essential to note that there are other direct calls organized by the EU delegations that are more flexible as for the tendered amounts; for example, via the Civil Society Facility. This might even help government-organized non-governmental organizations (GONGOs) to apply. In most cases (except for the EED), there also needs to be an official call for proposals and the whole procedure is rather lengthy before the funds start flowing. Therefore, it is the general lack of flexibility, problems with the administration of the grants, and the burden of heavy reporting for newer organizations, start-ups, and grassroots groups that prevent most CSOs from even applying for the EU support.

There are serious operational problems for domestic and international CSOs when receiving

financial aid from the EU, as well as stories of long negotiations over relatively trivial matters with EU delegations. For example, there is a threshold of 20 percent of co-funding for international CSO partners and in-kind contributions such as with equipment, services, and volunteering do not count for meeting it. The same goes for most local CSOs which often struggle to meet the minimum 10 percent limit for co-funding, which is a serious problem in less-rich countries.²⁶

Sub-granting as a Contested Practice

One of the models of implementation of the EU's support for civil society is sub-granting, especially where the EU wants to reach out to the grassroots level and find new actors that are without substantial support. There are positive and negative sides to it. On the one hand, it allows the EU to distribute funding to hundreds of small and medium-sized CSOs, even in remote areas, through local partners. It is in many respects also the only way for the EU to operate and break its large funding of several million euros into smaller packages of €10,000 to €30,000 for smaller actors, or up to €60,000 for well-established organizations and able to administer larger amounts of funding. However, the problems of administration, management, and capacity-building for hundreds of smaller initiatives and grants stay with the EU's partners on the ground.

However, through sub-granting the EU is shedding its responsibility and outsourcing not only the distribution of funds but also capacity-building and communication as well as the legal and financial responsibility for the whole process to third parties, often private actors, without having proper control over the process. Based on agreements with individual organizations, the European Commission simply outlines its conditions (including rather high co-funding requirements) and partners have to accept and follow its rules. There are questions over the sustainability of this approach

24 Godfrey and Youngs, Towards a New EU Democracy Strategy.

25 Boucher, Can Europe Be a Catalyst for Democratic Innovation?

26 Ullmann and Courtney, "Bridge to Democracy."

and concerning the capacity of local civil society to survive in the medium and long term.²⁷

The experience of Moldova shows that there are many question marks over what happens after several years to most of the projects and newly established groups supported through sub-granting. The strategic approach of the EU to civil society and its capacity-building is undermined since it seems to offer only short- to medium-term solutions but no long-term vision. Closely connected to that is the problem of the internal capacity of local actors, particularly in the regions. The EU's partners in Moldova confirm that there is a substantial problem with the capacity of actors in the regions that often cannot conduct even basic financial and administrative operations and reporting, which puts many projects under pressure. The brain drain from the regions causes additional problems to pro-democracy support. It is also often the case that people connected to a mayor's office (or their relatives) tend to establish their own CSOs and apply for EU' support. Finally, the efficiency of sub-granting is also partially dependent on the EU delegations and the responsible officer(s) in them, which has proven to cause problems either in a lack of responsiveness or in excessive demands, which raises the question of a lack of a common line, control mechanisms, and possible standards of work across delegations.

A Single EU Common Approach

In foreign policy, the EU has not one but 27 different voices, and its dealings with the EaP is no exception. This is particularly challenging for coordination and communication or determining priorities among the EU members and institutions, all of which have different interests, levels of situational awareness, and ambitions in the neighborhood.²⁸ In most cases, member states can agree on a common position and priorities, as seen when endorsing the EU Roadmaps for Civil Society Engagement. But the EU member

states have also their interests and visions. The EU institutions' approach to promoting what they perceive as the union's interests further complicates things. This sometimes leads to a lack of political direction and follow-up affecting support for civil society.²⁹ Matching the EU's tools and instruments with foreign policy goals and strategy is also often complicated, particularly when it comes to monitoring and evaluating but also the implementation of the reform process in this field.

The EU delegations are the main contact points for coordination of positions of member states on certain policy issues and strategies on how to achieve common goals in the neighborhood. They also play an important role in distributing EU funds and implementing individual projects, including with the help and feedback from civil society. Nevertheless, the EU delegations are seriously understaffed and often underperform in their duties, due to member states preventing the EEAS from becoming a fully-fledged diplomatic service outside their control. Limited capacity cripples the EU's efficiency and prevents the EU delegations from following all projects and policy fields. In the past, there also was more of a problem when reporting back to Brussels concerning a lack of expertise in the domestic reform processes and an inability to provide solid data and effectively monitor these on the ground.³⁰ This has been particularly the case in Moldova and Georgia, where even the good leadership of delegations could not compensate for the lack of personnel on the ground. This is less of an issue in Ukraine which also hosts the EU Advisory Mission and where the EU's presence is more substantial.³¹ The EU delegations consist of rather small teams dealing with numerous projects, policy priorities, strategic communication, or other business. In the past, it was recognized that the EU should pay more attention

27 Balfour, Bouchet, and Forbrig, *Improving EU-U.S. Cooperation in Civil Society Support*, p. 35.

28 Godfrey and Youngs, *Towards a New EU Democracy Strategy*.

29 Youngs, *EU Support to Civil Society in Turkey, Ukraine, and Egypt*.

30 European Parliament 2018, p.34 and p. 51.

31 See Youngs, *EU Support to Civil Society in Turkey, Ukraine, and Egypt*.

to strategic communication in the EaP countries.³² This has improved in recent years, partly thanks to outsourcing to other institutions (for example, the East StratCom Task Force), or third parties rather than building the delegations' capacity. It is also claimed that the current EU capacity in the EaP countries is too weak to penetrate social bubbles and tackle the anti-EU propaganda, undermining the credibility of the EU.³³

To summarize, the EU has increased its engagement in the EaP countries and making it more efficient. But this has been mostly at the expense of losing the bigger picture of geopolitical challenges, and too often by outsourcing the necessary skills, capacity, and responsibility to third parties to cut costs and managing more issues from Brussels. This results in limited knowledge, expertise, and presence in these countries, particularly in the regions. These facts limit the EU's influence, including the efficiency of its support to civil society and its choice of the right actors to cooperate with, especially outside of capitals.

Bringing Lessons Home

The Rights and Values Program

The creation of an EU Citizens, Equality, Rights, and Values Program is the most recent initiative of the European Parliament and the European Commission to tackle the problem of the shrinking space in member states and promote support for civil society there that would stand outside of the control of national authorities, even if those are consulted and involved in the

process of implementation.³⁴ The European Commission would be in charge of the new mechanism, which would establish a new European democracy fund that would administer the dedicated funds and distribute them together with transnational networks of CSOs on a regional basis. Among its goals, the Rights and Values Program would promote EU fundamental values and basic rights and deal with violence against some groups in society such as journalists, human rights defenders, and CSOs. In April 2019, the European Parliament reached a tentative agreement with the European Council that this instrument would be created, but this did not include a decision on its funding. Some member states are now trying to limit it, including by decreasing its funding, which the European Parliament instead suggested should triple to the €850 million for 2020-27.³⁵

In essence, the Rights and Values Program resembles the EIDHR and the EED as a European tool to support civil society. The proposed European democracy fund should go beyond traditional civil society support to also offer core operational funding and other more flexible procedures, including lighter administrative burdens for newly established groups and grassroots and start-up initiatives. There should also be an opportunity for multiannual operating grants and the acceptance of in-kind services as part of co-funding for CSOs, which "may be waived in cases of limited complementary funding."³⁶ Similar to the EIDHR, the Rights and Values Program should also have a special envelope for bolstering the EU's fundamental values and protecting democracy and human rights activists as well as promoting the resilience of civil society.

32 European Parliament, European Parliament Recommendation on March 13, 2019, to the Council and the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, [Taking Stock of the Follow-Up Taken by the EEAS Two Years after the EP Report on EU Strategic Communication to Counteract Propaganda Against it by Third Parties](#), 2019.

33 European Parliament, [Communicating Europe in Third Countries](#), 2017.

34 European Parliament, amendments adopted by the European Parliament on January 17, 2019, on the proposal for a regulation of the European Parliament and of the Council establishing the [Rights and Values Program](#), 2019.

35 European Parliament, Report on the Proposal for a Regulation of the European Parliament and of the Council Establishing the [Rights and Values Program](#), 2018.

36 European Parliament, 2019.

What can be learned from the EU's external assistance tools and instruments are flexibility and timely crisis response. The EED prides itself not only on supporting unorthodox initiatives but also on its ability to distribute as fast as within 48 hours. EED, EIDHR, and EEA grants allow a certain level of political and societal sensitivity in filling gaps that would otherwise not be addressed by traditional donors or local funding sources; for example concerning "unpopular" or "sensitive" topics such as the integration of migrants and national minorities or inclusion of marginalized groups.

Another lesson that can be drawn from the EIDHR is that it is of added value by including a regional component when bringing like-minded champions of change together on a regional or pan-European basis. It is important to decide on the balance between centralization (EED) and decentralization (EIDHR) of the decision-making process. However, taking into consideration the limited capacity of the EU delegations,³⁷ centralization or cooperation through regional networks of CSOs seems to be the best approach following the model of the Framework Partners working on the EaP. This pool of around 10 selected organizations has enough resources to bring together different skills, capacities, and competences when operating in the region. Finally, it is crucial to reach out to the unsupported groups and not only the usual suspects that are good at application procedures and reporting but lack the contact with reality. The planned program must include a simplified procedure for small and newly established organizations at the grassroots level that would diversify civil society and help it to grow beyond the well-established circles. What is at stake is choosing the right partner to meet the needs on the ground. The new instrument should be well equipped to do so.

Conditionality Is Missing

What is currently missing from the EU's domestic support for civil society and further complicates its operation is linking it to conditionality and the legitimacy of civil society's work. In the eastern neighborhood, it is common for CSOs to be demanding policy changes and be involved in political decision-making processes, often as credible and recognized actors promoted by the EU. It is considered normal that civil society helps to set the political agenda and is engaged in political life through lobbying and advocacy. This was the case, for example, in Ukraine after 2014 and Moldova after 2009.

The discussion about conditionality within the EU is now often reduced to a debate about tying EU cohesion and structural funds to the observance of EU values, and particularly the rule of law. But this issue is much wider and includes a civil society component. Before the enlargement of the EU in 2004, civil society in the CEE region played a very important role in reporting on and helping to implement progress in their country's EU accession process, a deeply political issue. This situation, however, changed after 2004 at which point the EU external support also faded away. Civil society in the CEE member states then moved to the different role of implementer and service-provider to the state and society, rather than that of being involved in the decision-making processes. This is still the case for some CSOs, but the public's understanding of the role of civil society in these countries has changed.³⁸ The changed public perception and the lack of domestic legitimacy or international support expose civil society to populism, nationalism, and extremes in the society, especially visible when CSOs try to re-establish their previously legitimate place in society. However, there are ways to achieve this, including with the help of the EU institutions.

Re-politicization and reclaiming its position in CEE societies represent a painful process for civil society that cannot avoid tensions with the political

37 Eastern Partnership Civil Society Forum, [EaP CSF Position Paper on the European Commission Joint Communication Eastern Partnership beyond 2020 Reinforcing Resilience – An Eastern Partnership that Delivers for All](#), 2020.

38 Jiri Vavron, "Neziskovky jsou potřeba, myslí si většina Čechů. Právidelně ale přispívá malokdo," [Novinky.cz](#), 2017.

class and at least one part of society. This is where most CEE countries are now, but there are substantial differences among them, while in Estonia and Lithuania civil society managed to show an incredible level of resilience or even reclaim its past place.³⁹

This is where the EU's support to the EaP countries and their civil societies, including through substantial financial resources and promoting their political legitimacy, might serve as an example for supporting civil society in the EU, especially combined with the Rights and Values Program. This is crucial to preserve or restore the rule of law, democratic governance, and pluralism in member states, including in the sphere of the media where EED has rich experience too. Here, the Digital Services Act and the EU Action Plan for Democracy addresses the democratic component (elections), the media and disinformation and so can further add to the Rights and Values Program to uphold EU values in the member states. Additionally, further strengthening the EU's communications and its presence in member states as well as allowing for the stronger and more legitimate involvement of civil society in political life might complement its actions aimed at the member states.

Finally, the EU's experience from the EaP region might be useful in providing "hooks" for civil society when delivering the EU's macro-financial or technical assistance. Within the EU, this can apply to the structural and cohesion funds that are likely to flow to those member states that are suffering particularly strongly from democratic backsliding and erosion of the rule of law. Discussions about smart conditionality⁴⁰ in the EaP countries can be also relevant to combine the EU's pressure on member states with domestic demands for better governance, more independent media, or an end to pressure on civic actors. The EU's external experience should be tapped when designing future Multiannual Financial Frameworks and determining to whom funds are given and under which circumstances. The

EU should also study how the EIDHR has worked in supporting the rule of law and human rights defenders in different countries around the world. Its democracy component and funding mechanism for supporting election observation missions and empowering civil society in this area should be taken into consideration.

The Operational Side of EU Support

In its external support for civil society, the EU has relied heavily on outsourcing many activities, including coaching, capacity-building, grant-making, and strategic communication. In some respects, this was the only way to achieve its goals in different contexts around the globe. However, strategic vision and control over the mechanisms were lacking and there have problems with the sustainability of such an approach. This trend underscores the EU's lack of financial resources and readiness to step up its presence. In the cases of Moldova and Georgia, where the EU struggles with limited capacity to manage all projects, lead efficient strategic communication, tackle anti-EU propaganda, and reach out to new civil society actors. Due to the lack of EU political will, there is often not enough time and capacity for the proactive work, strategic thinking, and outreach that would be necessary to choose the right partners for cooperation.⁴¹

Therefore, the lesson for the EU's work with civil society at home is at least twofold. First, it should invest substantial political capital, capacity, coordination, and financial resources into its presence on the ground. This presence and comprehensive knowledge of local contexts are crucial for policymaking. If the EU is serious about bolstering its democratic governance and rule-of-law architecture, it needs to match its ambitions with political will, skills, and funding opportunities to deal with these complex challenges. EU representatives in member states should also be further empowered to not only serve as contact points but also to have all-around expertise, strong capacity,

39 EU-Russia CSF, [2019 Report on the State of Civil Society in the EU and Russia](#), 2019.

40 Institute for Security Studies, *The Eastern Partnership a Decade on*, 110.

41 Leuven Centre for Global Governance Studies, *Challenges to the Effectiveness of EU Human Rights and Democratisation Policies*.

and strategic communication skills, especially when it comes to upholding EU fundamental values and empowering civil society as a key ally in promoting shared interests.

Second, the EU should think about supporting civil society in member states as a strategic investment in long-term partnerships that might bear fruit only after several years. It is necessary to move beyond the traditional short-term project-based cycles of support, including when it comes to monitoring and evaluating tools and instruments that should be less focused on activities and more about outcomes.⁴² The EU should not shy away from giving core operational support, bridge funding, or emergency support to key partners in member states and support them publicly against pressure from their governments. It should reflect on the sub-granting practice and conduct a proper cost-benefit analysis for each of the local contexts to avoid risks. It is particularly important to avoid potential dividing lines within civil society, whether based on location (capital vs regions) or size. These divides and enforcing the EU's will on civil society or preferential treatment for certain types of CSOs could have undesirable consequences. As seen in Moldova, it can hinder the reform process when it leads to switching the core focus from the capital (and more established, often advocacy-based, organizations) to the regions. Cluster projects, consisting of several bigger investments can be more effective and deliver benefits for citizens, rather than initiatives scattered all around the country (as the example of Moldova shows). And it would be a mistake to exclude smaller organizations from international cooperation and projects with partners from third countries just because they do not tick all the necessary boxes for the European Commission.

Therefore, fine-tuning the EU's help and support for different parts of civil society and combining different criteria and out-of-the-box solutions seems like the best approach. Together with the above-described re-politicization and re-establishing condi-

tionality as well as the new mechanism of the Rights and Values Program, this should achieve the desired change in democratic governance and rule of law architecture in the European Union.

Conclusion

The coronavirus pandemic is an enormous challenge for the whole world, including the EU. The coming months will be crucial when redesigning public policies and fine-tuning the EU's response to coming back to normal. Civil society can and will play a crucial role in restoring the public trust in the state and its institutions. Support for the EU fundamental values of democracy, human rights, and the rule of law as well as independent media and civil society are going to be essential too. Therefore, it is of critical importance to make the right choices when fine-tuning the tools and instruments for upholding these values inside the EU. The current state of play in the EU, including the ongoing negotiations of the Multiannual Financial Framework, provides an opportunity to unblock some of the bottlenecks in designing EU support for civil society if there is enough political will in the European Commission and the member states as well as sufficient pressure from citizens.

This study offers three broad conclusions and proposals for the future. The first one is related to the proposed Rights and Values Program of the EU. This tool that should uphold the EU's fundamental values can draw several lessons learned from the EIDHR and EED. The EED provides a good example of how to make grants in a flexible, rapid, confidential, and risk-tolerant manner, which responds to the local demand on the ground. The EIDHR can be an example for its defense of human rights and the Protectdefenders.eu program, or its decentralization and regional component of the calls for support.

The second set of recommendations is based on the EU's experience with political and financial conditionality as well as ensuring a role for civil society in the public life of EaP countries. Similarly, the EU should publicly endorse its civil society partners in member states as key allies on the ground and provide them

⁴² Godfrey and Youngs, *Towards a New EU Democracy Strategy*.

with leverage and “hooks” for conditionality to advocate for positive change. As in Moldova, Georgia, and Ukraine, the EU should combine in member states access to funding and technical assistance with support for civil society and its mainstreaming, as well as rule-of-law criteria. The debate about structural and cohesion funds should be open to these ideas and to the principle of smart conditionality and stopping or redirecting funds from national governments to other actors in a country in case of severe democratic backsliding and erosion of the rule of law and other EU fundamental values.

Finally, to fine-tune its engagement with civil society, the EU should bolster its presence in member states and enhance its expertise, capacity, and skills—most importantly connected to strategic communication, especially about the common EU values. The EU should not shy away from providing all possible and necessary means to civil society and independent media on the ground to empower them to achieve shared goals. Again, the EIDHR and the EED provide lessons. For the EU’s future work with civil society, the sub-granting mechanism should be seen as having only limited impact on the enabling space, importantly with sustainability and strategic vision often missing. Instead, following the recently established practice of framework partnerships that better enables the European Commission to select from several strongly credible and experienced partners that have various skills and competencies to meet the needs on the ground.

To conclude, the new Multiannual Financial Framework and several new tools and instruments in the EU, such as the Rights and Values Program, the Democracy Action Plan, and the Digital Services Act, can provide an opportunity to restore the rights and values in the union and improve the EU institution’s interaction with civil society. This is the right moment to deliver on the EU’s ambitious priorities in the area of democratic consolidation and the rule of law. If the European Commission wants to achieve its strategic priorities, it should do more to build from the bottom up, and in this civil society is a cornerstone in the whole structure.

Recommendations

Based on the experience of the EU’s external tools and instruments in the eastern neighborhood, the EU institutions and member states should:

- Start thinking strategically about supporting civil society and not to give up on the EU’s fundamental values, despite the numerous other challenges and priorities.
- Find the political will to make use of the Multiannual Financial Framework negotiations to unblock some of the bottlenecks when designing the EU future support for civil society in member states.
- Expand the EU’s internal toolbox and come up with fresh ideas for supporting civil society and reaching out to new actors and new parts of society, including by reacting flexibly and in a timely way to local contexts in member states, which often requires tailor-made solutions to the complex challenges they face.
- Combine short-term response with long-term strategic vision and investment, as has been done successfully in the eastern neighborhood, including on a regional basis.

To create an enabling environment and empower civil society in the EU, it is necessary to:

- Help restore CSOs to their rightful place in society and their public image from the period before accession in the CEE member states, which are suffering particularly hard from democratic backsliding, erosion of the rule of law, and the rise of populism.
- Step up the EU’s public diplomacy and strategic communication, particularly on the topic of common European values, including by boosting the capacity of local representations in member states.
- Facilitate the inclusion of civil society in decision-making processes and to offer it certain leverage and hooks; for example, related to EU structural and cohesion funds, which could in the

future also include mandatory engagement with civil society and its mainstreaming, as the EU has done in the eastern neighborhood with macro-financial and technical assistance.

- Establish an early-warning mechanism and specific monitoring for member states to detect any deterioration in the situation of civil society or fundamental values.
- Make receiving EU structural and cohesion funds conditional on meeting certain benchmarks, as proposed by the European Commission in May 2018 (for example, related to the quality of the rule of law, joining the European Prosecutor's Office, or following the European Anti-Fraud Office's recommendations), with the possibility of suspending EU support or redistributing it beyond national government to civil society, independent media, local administrations, and other pro-EU actors. This was successful in Moldova when applying a smart conditionality approach in 2018.
- Lower the co-funding threshold for international CSOs by half to 10 percent and 5 percent in case of domestic actors.

To make the Rights and Values Program successful, it is necessary to:

- Devote sufficient financial resources as proposed by the European Parliament in January 2019 and reverse the recent funding decision of the European Commission, thus recognizing the concerns of the European civil society.⁴³
- Take into consideration the previous experiences and best practices from the EIDHR and EED when designing an appropriate structure to allow the new tool to respond flexibly and rapidly to the situation on the ground. It is essential to balance the program's qualities, including if the

decision-making process is in Brussels or by the EU representations in member states, or which organizations are eligible for support, including grassroots but also well-established and advocacy-driven ones, in the regions and the capital.

- Accept that well-established CSOs with strong regional networks, experiences, and toolboxes are best positioned to help to facilitate the EU's work on this topic, and thus to follow the model of the European Commission's framework partnership agreements for the eastern neighborhood.
- Include issues that are now missing from the EU's internal toolbox such as emergency support for human rights defenders, where the EIDHR and Protectdefenders.eu might serve as concrete examples of good practice.
- Provide civil society with emergency and core operational funding for sustainability and flexible support that is low on administrative burden and provided on a rolling basis without calls for support proposals, which could meet needs on the ground and flexibly respond to crises as well as uphold the EU's fundamental values. This kind of support should also include funds for advocacy and lobbying member-state governments to achieve long-term change. Once again, the EED might serve as a concrete example of this approach.

⁴³ [Open letter by European civil society organisations](#) – co-signed by the EU-Russia Civil Society Forum:

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