



Organization for Security and
Co-operation in Europe
Project Co-ordinator in Ukraine



NGO «INSTITUTE OF RURAL DEVELOPMENT»

Research of the existing practices and legislation of Ukraine in the area of funding of civil society organisations by government bodies, local authorities and the private sector

Research within the framework of the joint project of the Secretariat of the Cabinet of Ministers of Ukraine and OSCE Project Co-ordinator in Ukraine “Developing Institutional Framework of Funding Civil Society Organisations in Ukraine”,
funded by the Foreign & Commonwealth Office (the United Kingdom)

December 2010

Kyiv, Ukraine

Published by the OSCE Project Co-ordinator in Ukraine
Striletska str., 16
Kyiv, 01034, Ukraine
www.osce.org/ukraine
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1. Introduction to problems and relevance of the research

Civil society is a social space outside governmental, business-oriented, and family relationships and activities, where individuals come together voluntarily to advocate their common interests. In a broader sense, civil society entities may include civil society organisations, charities, business associations, people's self-organisation bodies, media, trade unions, employer organisations, faith-based organisations, citizen activist groups, etc.¹

Ukraine's movement towards the development of democracy depends directly on the level of development of civil society and its ability to actually influence socio-economic and political processes in the country. Today's activities of civil society organisations (CSOs) focus on consultations and building effective solutions to particular problems; provision of social services not delivered by the business because of their unprofitability; enhancement of charities; public monitoring and participation in combating corruption – that all covers a great number of issues that positively influence economic and social conditions of the community, either directly or indirectly. Therefore, CSOs are effective partners to the state in solving humanitarian and socio-economic problems. As such they take over some functions of the state, and should be offered additional financial incentives in exchange for more transparency and control of their activities by the state and society. Currently, however, Ukrainian CSOs are mainly funded by solitary local providers and foreign donors (75-85%). The annual budget of a typical Ukrainian civil society organisation is about 50,000-60,000 hryvnias, with only 2-3% of the budget funded by state. This parameter positions Ukraine next to Philippines, Pakistan and Kenya. The annual budget of a CSO in EU member countries in Eastern Europe is equivalent to 560,000–670,000 hryvnias, with 40-60% of the amount coming from the state².

The lack of state funding of Ukrainian CSOs is the main, but not a single problem. Only 12 out of 65 central executive agencies fund certain types of CSOs. Those that can rely on government support are all-Ukraine organisations of disabled people, youth and children, Chornobyl eliminators' organisations, art groups, ethnic minority organisations and sports federations. It should be noted that there is no funding for activities of law and advocacy, environment and monitoring CSOs.

The available scant amounts of money are not always used in an effective and transparent way. Only three executive agencies of Ukraine – the Ministry for Family, Youth and Sports, the Ministry of Labour and Social Policy, and the State Committee for Television and Radio Broadcasting – allocate money on a competitive, transparent basis. But the Ministry for Family, Youth and Sports, for instance, allocated only 5 million hryvnias out of 10 million hryvnias received in 2009 to support youth organisations among competitors, the rest of money was allocated nontransparently, without an open tender exercise.²

The government procurement process is still complicated and contradictory. In the first half of 2009, the state undertook a tender exercise to procure works, goods and services that amounted to 58.4 billion hryvnias, while only 2.5 million hryvnias were spent on services procured from (only three!) civil society organisations. Programmes to tender for local project funding are lacking. Only 8 of 25 oblast centres have such CSO funding programmes: councils of Odesa, Chernivtsi, Kyiv, Khmelnytsky, Mykolayiv, Lviv, Kharkiv, Chernihiv, Poltava³.

In accordance with applicable laws, civil society organisations may support statutory activities using not only the budget, but also other sources of funding – money from interested citizens, enterprises, entrepreneurs. However, business is only beginning to perceive CSOs as partners in tackling social problems, an agent of social influence on government bodies. In some

¹ M. Latsiba. Government policy and the level of development of civil society in Ukraine / Ukrainian Centre for Independent Political Research. – Kyiv, 2006.

² Government funding of civil society organisations. How will European standards be implemented? / [O. Vinnikov, D. Kovryzhenko, A. Krasnosilska et al.]; Ukrainian Centre for Independent Political Research. – Kyiv, 2010.

³ Government funding of civil society organisations. How will European standards be implemented? / [All-Ukraine conference papers (Kyiv, 2010)]. [Available electronically from <http://gurt.org.ua/news/conferences/5535>]

cases, business promotes creation, almost without exception, of civil society associations within its sectors and funds their activities. An example may be such sectoral organisations as the Agricultural Chamber of Ukraine and the Ukrainian Agrarian Confederation whose members are from farms and the farms themselves.

Laws of many countries let individuals donate larger portions of their incomes exempt from taxes than legal persons. For example, the USA have set it at 50%, and Spain at 20-30%. This may be explained by a need to reinvest naturally limiting legal persons in giving a part of their profit. Donations of a large size exempt from taxes in such countries lead to the emergence of strong charities that provide significant financial and other support to other non-profit civil society organisations and the most vulnerable groups of citizens.

Besides lack of financial support provided by the government for CSOs, state regulation in place in our country failed to create incentives for citizens and the business to financially support civil society social projects and activities of civil society associations and charities. Poor national funding framework and critical dependence on international donors create considerable risks to activities of CSOs owing to which CSOs have not as yet become the main partner to the state in solving social problems, and most citizens do not think civil society organisations to be of any use and need.

In general, neither government bodies nor the private sector has enough experience and skills to apply diverse forms and mechanisms of giving financial support to CSOs that exerts direct influence on sustainable development of the third sector. The existing practices of providing financial support to CSOs by the state, the business and private persons need to undergo scrutiny and analysis. Therefore, the *aim* of this paper is to research the existing experience and legislation of Ukraine in the area of funding of civil society organisations by government bodies, local authorities and private sector, and provide consolidated recommendations as to improvement of the existing legislative framework of Ukraine in the area of CSO funding, from the point of view of its compliance with the best international practices, fostering sustainable development and financial independence of civil society organisations.

Particular problems of development of civil society organisations and some of their types (charitable, voluntary organisations) have been studied by many researchers and stakeholders⁴. In our paper, we research theoretical (legislative) and practical (survey-based) challenges in funding civil society entities of all types. That is, we thoroughly investigate the existing legislative framework of Ukraine that regulates funding of CSOs from government bodies, local authorities, the business sector and other sources, as well as experience in the area of government and non-government funding of civil society organisations, in line with aims of the research component of the project titled 'Developing Institutional Framework of Funding Civil Society Organisations in Ukraine'.

Our research is composed of the three interrelated parts. The *first* part is a desk top research undertaken to provide an overview and detailed analysis of applicable Ukrainian laws regulating CSO funding and taxation issues, focusing on problematic issues relating to application of legislative provisions and their relevance. The analysed sources of funding include government bodies and local authorities (supporting statutory activities of CSOs, grants to carrying out specific activities (project tenders, procurement of services); the private sector (procurement of services,

⁴ The level and the dynamics of development of non-governmental organisations in Ukraine. 2002-2006: Study Report / [L. Palyvoda, O. Kikot]; Counterpart Creative Centre;. – Kyiv: Makros, 2006. – p. 35; Shevchuk T. Non-governmental organisations in social life of Rivne area [Available electronically from <http://postua.info/news.php?nid=6>]; Stepanenko I. Conceptual uncertainty of civil society in Ukraine: Possible ways to overcome / Development of democracy in Ukraine [International science conference papers (Kyiv, 29 September - 1 October 2000)]. – Kyiv: Centre for Education Initiatives, 2001. – p. 593; Derzhalyuk O. The dynamics and expansion of the scope of activities of civil society organisations as a component of democratisation of Ukrainian society [Available electronically from <http://www.niss.gov.ua/Monitor/May08/03.htm>];

Reva S. Participation of the public in the process of making and implementation of government policy // Political management. – 2006. – No. 3 (18). – p. 7; Assessment of the system of government funding of civil society organisations in Ukraine: Analytical study report / UNITER/PACT. – Kyiv, 2010.

charitable activities); individual citizens (charitable activities); paid services commissioned by CSOs and other sources of funding. The first part will also include a close analysis of national legislation in respect of creation of an environment by the state to foster gaining active incomes by CSOs from provision of paid services aimed at carrying out statutory activities, and participation of CSOs in the process of consultations and decision-making, building co-operation and interface with governing structures in the area of promoting development and strengthening financial capacities of CSOs. At the end of the first part, we will provide interim conclusions to serve as a basis for providing recommendations as to improvement of the existing legislative framework of Ukraine in the area of CSO funding.

The *second* part of the research deals with the analysis of government and non-government CSO funding practices existing in Ukraine, identification of weaknesses and successes. Today's CSO funding practices were studied by interviewing 300 respondents from different regions of Ukraine. An important input in highlighting this issue came from the discussion of CSO funding problems and practices by participants in regional round table discussions that represented local authorities, civil society and stakeholders. At the end of the second part, we will provide interim conclusions as to the existing practices of CSO funding by government bodies, local authorities and the private sector.

The *third* part of the research provides recommendations as to improvement of the existing regulatory framework of Ukraine in the area of funding of civil society organisations, from the point of view of its compliance with the best international practices, consistency and effectiveness in fostering sustainable development and financial independence of CSOs. The recommendations are provided in co-operation with the research component of the Unified Budget Project 'Civil Society International Best Practice Research', based on materials of the desk top and field studies.

Research methodology

The research of the applicable legislative framework of Ukraine that regulates funding of civil society organisations (CSOs) from government bodies, local authorities, the business sector and other sources, as well as the experience in the area of government and non-government funding of civil society organisations in line with aims of the research component of the project aimed at 'Developing Institutional Framework of Funding Civil Society Organisations in Ukraine' includes, in fact, the three parts: desk top, field studies and provision of recommendations.

Desk top study

The desk top research of applicable laws of Ukraine in the area of CSO funding by government bodies, local authorities and the private sector is conducted by the method of analysis of documents. At the stage of the desk top overview, we will focus on the analysis of legislation regulating CSO funding and opportunities for their participation in the process of consultations and law-making.

The regulatory function of the state becomes apparent both in Laws of Ukraine and a variety of by-laws, from Resolutions of the Cabinet of Ministers of Ukraine to innumerable letters and explanations of ministries and fiscal bodies. Therefore, the analysis of the national regulatory framework that regulates CSO funding covers, *firstly*, the Constitution of Ukraine, Civil, Economic and Budget Codes of Ukraine; laws of Ukraine regulating activities of citizens' associations, people's self-organisation bodies and local authorities, trade unions and art groups, civil society charitable, youth- and children organisations; CSO state registration, legal status and taxation. *Secondly*, Resolutions of the Cabinet of Ministers of Ukraine that regulate participation of the public in making and implementation of government policy, ensuring transparency of action of government bodies, etc. are analysed. *Thirdly*, to understand the problem fully, the respective decrees, explanatory notes and references of the Ministry of Justice of Ukraine and the State Tax

Administration of Ukraine (STA), other by-laws and judicial practice of settling tax disputes between STA agencies and CSOs are analysed.

There is a practice when state funds some civil society organisations while functioning of the other is fuelled by their own activities and money from other sources. The Law of Ukraine 'On State Budget' contains yearly allocations to support particular non-profit organisations, especially, organisations of disabled people, Ukrainian deaf society (UTOG) and Ukrainian blind society (UTOS), etc. However, non-profit organisations are currently provided with real opportunities to be partners in implementation of local programmes, and a degree of independence of local budgets from the state, with deputies of local councils being able to influence their setting, raises hope of an increase in the number of social programmes implemented together with non-profit organisations. Therefore at the stage of the desk top overview, we attract attention to characteristics of and problems arising in the process of CSO funding by government bodies and local authorities (supporting statutory activities, grants for carrying out particular activities (project tenders), carrying out some activities based on socio-economic development programmes approved by local governments, procurement of services, inter alia, from special CSOs: youth-organisations, trade unions, disabled people, veterans organisations, etc.).

At the stage of the desk top overview, legal problems relating to CSO funding by the private sector and individual citizens (for example, procurement of services; charitable activities; non-refundable financial assistance) will also be analysed. Pursuant to applicable laws, money voluntarily transferred to the State Budget of Ukraine or local budgets, non-profit organisations referred to in the Law of Ukraine 'On Enterprise Profit Tax', article 7, section 7.11, during a reporting year, money transferred to legal persons including non-profit organisations that are founders of a permanent arbitration court, exceeding 2 %, but not exceeding 5 % of taxable income gained in the preceding reporting year (Law of Ukraine 'On Enterprise Profit Tax', section 5.2.2.) are incorporated into total costs. This relief is insignificant and does not result in a significant transfer of money from business entities to non-profit organisations.

The problem with giving money by the business to non-profit organisations can not be currently solved by simply raising this limit by 1-2%, a practice generally accepted in our country, because this 5% includes voluntary transfers to the budget, and besides, a large part of the business is not gaining any profits practically at all or pays a fixed (single) tax (small business). Should the proposed version of the Tax Code that heavily infringes upon rights of, especially, the small business, be adopted, most small enterprises and private entrepreneurs will stop to exist.

The desk top research will also include the analysis of opportunities of applicable laws for creation of an environment to foster gaining active incomes by CSOs from provision of paid services aimed at carrying out statutory activities. Non-profit organisations of Ukraine do not engage in any business practically at all. Charities may carry out economic activities in any form, however, provided that they are aimed at performing statutory work. But if a charity carries out economic activities on its behalf, without creating its own entrepreneurial structure, it will at once lose the status of a non-profit organisation and will have to pay a profit tax. The lawmaker allowed NPOs to found business entities that may use a part of their profits to make charitable donations and provide other types of assistance to CSOs, however, this assistance, without prejudice to the financial position of a business entity, is limited to 5%, as discussed above.

At the stage of the desk top overview, legitimate opportunities for using other sources of CSO funding and available secondary sources of information on these topics – analytical studies and statistics – will also be analysed, for example: The level and the dynamics of development of non-governmental organisations in Ukraine. 2002-2006: Research report / [L. Palyvoda, O. Kikot]; Counterpart Creative Centre. – Kyiv: Makros, 2006. – p. 35; Stepanenko I. Conceptual uncertainty of civil society in Ukraine: Possible ways to overcome / Development of democracy in Ukraine [International science conference papers (Kyiv, 29 September - 1 October 2000)]. – Kyiv: Centre for Education Initiatives, 2001. – p. 593; Shevchuk T. Non-governmental organisations in social life of Rivne area [Available electronically from <http://postua.info/news.php?nid=6>]; Derzhalyuk O. The dynamics and expansion of the scope of activities of civil society organisations as a component

of democratisation of Ukrainian society [Available electronically from <http://www.niss.gov.ua/Monitor/May08/03.htm>]; Reva S. Participation of the public in the process of making and implementation of government policy // Political management. – 2006. – No. 3 (18). – p. 7; Government funding of civil society organisations. How will European standards be implemented? / Ukrainian Centre for Independent Political Research. – Kyiv. – 2010; Assessment of the system of government funding of civil society organisations in Ukraine: Analytical research report / UNITER/PACT. – Kyiv. – 2010, etc.

Field research

Before starting the field research, we developed approaches to identify expert assessment units and territorial units used in the research, defined the structure of division of respondents on the basis of their belonging to a group of expert assessment units and a territorial unit used in the research, determined field research tools.

The field research of the existing experience in the area of CSO funding by government bodies, local authorities and the private sector is conducted by the method of a structured expert interview with 300 suitable respondents in 5 representative regions of Ukraine, in particular: 1. Eastern (Donetsk oblast); 2. Western (Volyn oblast); 3. Southern (Odesa oblast); 4. Northern (Kyiv oblast); 5. Central (Poltava oblast and Kyiv), visiting organisations and a face-to-face contact with the respondents.

The above oblasts are characteristic within the regions in terms of not only geographical and historical proximity, but also the level and the structure of economic sectors. Respondents participating in the survey included those from legislative and executive agencies at the national and local levels, civil society organisations, civil society and business experts.

Twenty per cent (20%) of respondents were interviewed in rural areas. The reason is that, along with difficulties faced by rural CSOs (limited knowledge and resources including information for bidding for funds), there are interesting examples of close co-operation and funding of rural CSOs by local authorities and entrepreneurs, technical inputs (labour, tools, equipment) provided by community members to CSOs to carry out socio-economic community development projects and statutory activities. It is such inputs that reduce dependence of local CSOs on grant funding by both local governments and international donors.

Rural survey will complement the research of the experience in the area of government and non-government CSO funding and make it more representative all over Ukraine.

Sociological data obtained at the field stage by interviewing 300 respondents will be processed using SPSS.

Recommendations

In co-operation with the research component of the Unified Budget Project 'Civil Society International Best Practice Research', based on materials of the desk top and the field studies, recommendations were provided with respect to improvement of the existing regulatory framework of Ukraine in the area of funding of civil society organisations, from the point of view of its compliance with the best international practices, consistency and effectiveness in fostering sustainable development and financial independence of CSOs.

The research of the existing experience and legislation of Ukraine in the area of funding of civil society organisations by government bodies, local authorities and the private sector is the research component of the project titled 'Developing Institutional Framework of Funding Civil Society Organisations in Ukraine'. Analytical data, experimental materials and conclusions of the national research provided a basis to inform designing activities aimed at improvement of institutional development of the CSO funding system.

Results of this research will directly influence the development of an integral system and institutional mechanisms of funding of the civil society in the national dimension, which will ensure

that the research uses the cross-region and cross-sector approaches. It is also important that the research that involves national (ministries, central executive agencies) and local (local authorities) budget distributors and private sector representatives allows for different CSO funding sources and forms.

The research has strategic value as its results will promote a transparent and sustainable civil society funding system and provide a long-term perspective on its institutional development. Put into lawmaking practice, the obtained analytical and empirical results of the national research that are part of other international comparative studies will significantly influence the dynamics of processes of Ukraine's integration into the global community.

2. Analysis of applicable laws that regulate funding of civil society organisations in Ukraine

Over the years of independence, Ukraine has made remarkable progress toward creation of democratic institutions and strengthening of democratic procedures. In its 2009 report, the Freedom House that has ranked Ukraine as a 'free' country starting from 2005 described Ukraine as a dynamically developing democracy in the region valuing fundamental human rights and freedoms⁴. Civil society organisations belong to the very democratic institutions that help citizens exercise their fundamental rights and freedoms and provide a powerful tool to create and legitimise an effective state's governance system by more broadly engaging CSOs in making and implementation of government policy.

The research of problems relating to the development of civil society in Ukraine, especially, such as attraction of CSOs funding of different types, seeking possible ways to improve co-operation and strengthen the framework of interaction of government bodies with the public largely benefited from efforts made by experts and research institutions.

Considerable attention to highlighting problems relating to activities and development of non-governmental organisations (NGOs) is paid by the Counterpart Creative Centre (CCC). CCC researchers estimate that the number of active organisations in Ukraine (59,321 as estimated by the Single State Register of Enterprises and Organisations of Ukraine (EDRPOU) in early 2009)⁵ may be around 4,000-5,000.⁶ A large number of registered organisations exist only formally or function episodically. Based on their criteria, NGOs may be deemed to be active only when they function for at least two years, have experience in carrying out two and more projects and are well known in their region. According to the annual CCC survey, in 2006 the overall organisational capacity of Ukrainian NGOs first exceeded the average level (scored 2.9 on a five-point scale), although in 2007 it descended to 2.65. The concept of NGO organisational capacity is integrated with the assessment of strategic management, governance system, leadership and management system, NGO fundraising strategies, compliance of financial management with international accounting standards, standards of human and financial resource management.

The existence of comparatively few active NGOs can be explained not only by scant financial resources generated through government programmes, grants, and in some cases, membership subscriptions (which mainly applies to trade unions), but also, unfortunately, the lack of demand for activities of non-governmental organisations. Citizens of Ukraine are almost unaware of a role, functions and capacity of NGOs and do not participate in their activities practically at all. According to the Razumkov Centre survey, 4.7% of citizens are actively involved in volunteering in Ukraine, whilst 82.6% of the respondents are not. As regards membership, 69.3% said they do not belong to any organisations, 21.2% are members of trade unions, 3.6% of parties, and 3% of clubs⁷.

Such disappointing results suggest that the state fails to pay due attention to strengthening capacities of civil society in order to achieve its objectives and goals. And, unfortunately, attempts of the government at creating a sophisticated state's governance system have not so far allowed for a role played by civil society organisations in the state's governance system. Therefore, in fact, CSOs are currently outside of the process of transformation of the Ukrainian society on its way towards democratisation.

As discussed above, current government funding of CSOs in Ukraine is quantitatively inadequate, and activities of civil society organisations are mainly supported by foreign donors and

⁴ [Available electronically from <http://tsn.ua/ukrayina/.html>].

⁵ The number of EDRPOU entities by legal forms as assessed on 1 January 2009 [Available electronically from <http://www.ukrstat.gov.ua/>].

⁶ The level and the dynamics of development of non-governmental organisations in Ukraine in 2002-2006: Study report / [L. Palyvoda, O. Kikot]; Counterpart Creative Centre. – Kyiv: Counterpart Creative Centre, 2006. – p. 4.

⁷ Shevchuk T. Non-governmental organisations in social life of Rivne area [Available electronically from <http://postua.info/news.php?nid=6>].

local givers. Citizens' and business opportunities of charitable giving are limited by unavailability of free money, legislative tangle and practically total lack of tax reliefs. The society holds a stereotype that charitable activities of CSOs should not be paid, and thus feeds a categorical users' approach to receiving support and services from non-governmental organisations. On the other hand, civil society organisations do not have any resources and investments to run fundraising campaigns and prefer an organised and rather cheap source of resources – international donors.

This thought is confirmed by results of the research conducted by the Counterpart Creative Centre⁸. In particular, the NGO funding sources situation in 2008 is shown in fig. 1: percentage characterises the number of organisations receiving funding from the specified sources.

CCC experts also studied the dynamics of the structure of annual NGO budgets (table 1). Analysing data from 2008, they reached conclusions on a budget of an average NGO. Assistance provided by the business was mentioned by 45% of the surveyed NGOs, but donations made by the business account for only 18% of the organisation's budget.

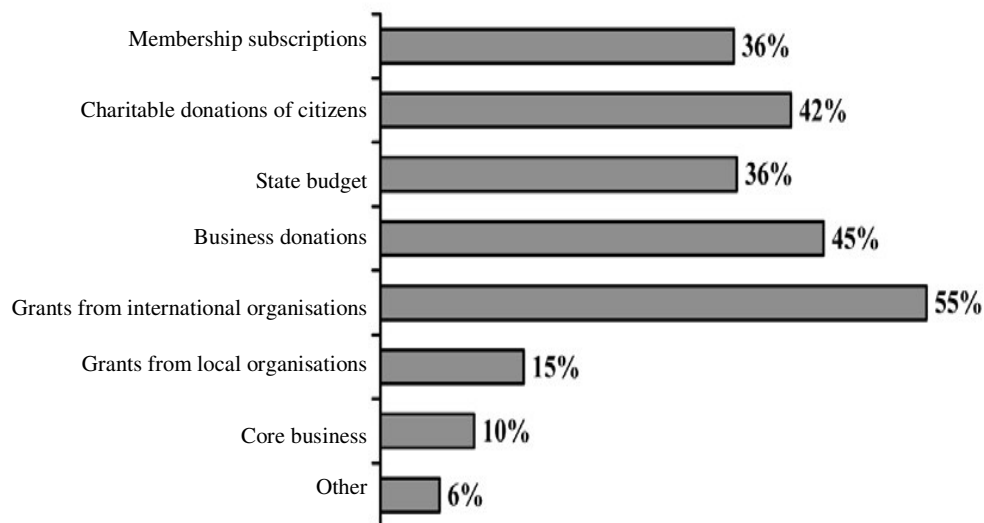


Fig. 1. Structure of sources of funding of Ukrainian NGOs

The number of NGOs that received funding from international donors is comparatively greater and accounts for 55% of the surveyed NGOs, however, grants from international organisations make up 41% of the annual budget.

Table 1

Dynamics of the structure of budgets of Ukrainian NGOs, %

Source	2002	2003	2004	2005	2006	2008
Charitable donations of citizens	11	11	12	11	12	14
Grants from local organisations	3	3	4	5	17	15
Membership subscriptions	12	14	12	9	15	12
Core business such as social entrepreneurship	4	3	4	4	4	6
State budget	11	10	9	10	13	15
Business donations	20	21	19	19	17	18
Other sources	4	6	3	4	4	5
Grants from international organisations	35	32	37	38	45	41

Similarly, 36% of the respondents are funded by the state, but this accounts for only 15% of NGO budget. Citizens make donations to 42% of the surveyed organisations, and they account

⁸ The level and the dynamics of development of non-governmental organisations in Ukraine in 2002-2009: Study report / CCC. – 2009. [Available electronically from http://ccc-tck.org.ua/file/biblioteka/CSO_2009UA.pdf].

for only 14% of the budget. Local organisations give grants to 15% of NGOs that also make up 15% of the budget. Core business is the source of funding to 10% of the respondents, but they account for only 6% of the budget.

Despite general compliance of laws of Ukraine in the area of attraction of resources by CSOs with international principles and standards, they 'do not work' because of imperfection of the regulatory framework, inconsistency and complexity of its interpretation, lack of key regulations⁹.

2.1. Funding from government bodies and local authorities

Civil society organisations' entitlement to financial support from the state is established by the Law of Ukraine 'On Citizens' Associations' (article 8)¹⁰ and the Budget Code of Ukraine (article 87)¹¹.

The current system of legal regulation of CSO funding by the state can be split into:

- regulation of CSO activities;
- regulation of state budgets (including the Budget Code) and targeted government programmes;
- regulation of the use of funds provided by the State Budget and targeted government programmes (in particular, resolutions of the Cabinet of Ministers of Ukraine, decrees of respective Ministries);
- regulation of the process of government-launched tenders for social projects and direct funding of activities of, and projects for CSOs.

Moreover, laws regulating government funding of CSOs undergo frequent and sporadic changes. Both users and providers often misunderstand them or fail to keep abreast of changes made to them. As a consequence, they need to be explained by competent government bodies.

Today, though, a system is already in place where the state provides financial support for Ukrainian CSOs using several mechanisms.

Subsidies, a form of government funding aimed at supporting CSO activities in general rather than particular projects. In Ukraine, subsidies are given only to some civil society organisations, for example, veterans organisations.

Grants, an allocation of government money on a competitive basis, based on identified priorities. The tendering system is rather new to Ukraine so far.

Social contracts, when contracts are used in the area of social policy, for example, in case of disabled people civil society organisations.

Government procurement of works and services based on respective regulations.

Participation of CSOs and their representatives in actions of government bodies.

There are two CSO funding planes – the national and the local. The legal basis for such funding is the Budget Code of Ukraine, Laws of Ukraine covering annual state budgets, Resolutions of the Cabinet of Ministers of Ukraine, regulations of central executive agencies recognising particular CSOs (on a competitive and non-competitive basis).

At the national level, the system of budget funding, in particular, of CSOs is approved by the Verkhovna Rada of Ukraine through the Budget Code of Ukraine, special laws including Laws of Ukraine covering annual state budgets. The Verkhovna Rada of Ukraine establishes the rules of providing financial support for CSOs by local authorities and its possible level (by determining amounts to be retained by local authorities and adopting assumptions with respect to whether

⁹ Kuts S. 'Percentage philanthropy' as a guarantee of the development of civil society, a way toward involvement of citizens and civil society support, a resource of and for civil society in Ukraine. Analytical note on analysis of government policy in the area of funding of civil society organisations / Centre for Philanthropy. [Available electronically from <http://philanthropy.org.ua/chi-mozhliva-vidsotkova-filantropiya-v-ukra%D1%97ni/>].

¹⁰ Law of Ukraine 2460-XII 'On Citizens' Associations' dated 16 June 1992 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2460-12>].

¹¹ Budget Code of Ukraine 2542-III dated 21 June 2001 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2542-14&p=1288600175262795>].

interbudget formulae should account for financial relationship between CSOs and local government). Laws of Ukraine covering the state budget annually make specific allocations to support CSOs at the national level.

In most cases, however, the Verkhovna Rada of Ukraine does not identify particular CSOs or make specific allocations for the state to support the same and, instead, determines types of organisations entitled to it. In a similar way, the system operates at the local level where local councils identify particular CSOs to be supported only sometimes. It should be noted that the Verkhovna Rada of Ukraine recognises around 10 CSOs of different types yearly, and local councils identify, on average, from 2 to 20 organisations, depending on a region and local finance.

At the local and national levels, executive agencies determine the procedure and the level of financial support to be given to any CSOs on their own, and tender exercises seem to be formal or even avoided.

Government bodies usually decide to support any organisations in general only sometimes. As a rule, such a decision is made by a government subdivision, and the government only approves the funding procedure. At the local level, the situation is roughly similar – a particular CSO to be supported is identified by an executive department or division of a government body.

Furthermore, funding at the both levels involves the State Treasury of Ukraine as a support regulator that performs two main functions by checking CSO documents directly in the process of funding and prioritising funding by items, based, in particular, on 'protected' budget items.

Current laws of Ukraine do not precisely define particular characteristics of funding, financial support to be provided to projects of civil society organisations. In general, though, the legislation addresses this in the Law of Ukraine 'On Citizens' Associations': 'the state approves the list of all-Ukraine civil society organisations in receipt of its financial assistance'. In fact the law imposes status-based limitations on civil society organisations (that have three status types – international, all-Ukraine and local) entitled to financial assistance (it appears to mean subsidies from or statutory funding by the State Budget). This law says that statutory activities of a civil society organisation may be supported only in case it has the all-Ukraine status and does not currently mention any other forms of support for civil society organisations as the main CSO type. This form is thought by most legal experts to mean that the state uses the mechanism of approval to provide financial assistance to CSOs whose activities are needed by the state and meet its interests. Therefore, the basic provision of the law provides the basis necessary to identify priorities of co-operation of the state and CSOs, as well as the basis for the development of the tender mechanism.

The Budget Code of Ukraine recognises three types of CSOs to which state funding can be allocated, in particular:

- disabled people and veterans civil society organisations having the all-Ukraine status;
- civil society youth organisations that are supported to carry out national programmes and activities targeted at children, youth, women, family;
- civil society culture and art groups having the national status.

However, it should be noted that, despite the absence of express references thereto in the Budget Code of Ukraine, other, e.g. Chornobyl organisations (founded by Chornobyl victims) are also funded. In this case, government bodies provide funding based on provisions of other laws permitting the same.

Analysis of the Law of Ukraine 'On State Budget of Ukraine 2010'¹² shows that it considers spending on CSOs as follows:

- amounts of funding of particular CSOs in 2010;
- levels of funding of particular CSO types in 2010;
- money to launch CSO project tenders in 2010;
- amounts of funding of actions of government bodies in which, though, CSOs can participate.

Therefore, the State Budget, being the main financial instrument of the state, currently opens the following areas of co-operation between the government and civil society organisations: direct

¹² Law of Ukraine 2154-IV 'On State Budget of Ukraine 2010' dated 27 April 2010 [Available electronically from <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2154-17>].

financial support to particular CSOs, CSO funding using special mechanisms, their indirect and potential involvement through co-operation with government bodies.

As regards the use of government money, practical legal instruments currently in force usually are by-laws approved based on the existing system of laws and codes, and resolutions of the Cabinet of Ministers of Ukraine usually establish the procedure of funding activities of any types of CSOs. As a rule, money from the State Budget of Ukraine is allocated for:

- paying wages and remuneration;
- paying fees to international organisations (for example, the Red Cross Society);
- renting premises and equipment, use of public services and energy resources;
- paying transport costs, use of transport services and owned vehicles;
- purchase of low-value or perishable products, materials, equipment and tools;
- maintenance and repairs of equipment;
- maintenance of office equipment, installation and maintenance of software, maintenance of computer programmes, cartridge and toner refill services;
- use of banking, legal, printing services;
- participation in short-term workshops, meetings, training;
- use of mailing, wire, telephone, email services;
- routine repairs;
- insurance and guarding of premises including maintenance of intruder and fire alarm systems;
- covering costs of promoting functionality and activities of institutions of civil society organisations and associations, and improvement of technical condition of premises;
- organisation of mass events, competitions, promoting learning and training process, organisational, methods building and other activities linked to implementation of approved programmes.

These by-laws include a series of Resolutions of the Cabinet of Ministers of Ukraine, decrees of the Ministry of Culture and Tourism of Ukraine, Ministry of Regional Development and Construction of Ukraine, State Committee of Ukraine for Nationalities and Religions, etc.

Also it should be noted that, besides direct funding, the State Budget of Ukraine-2010, similarly to preceding years, allows state and community owned property to be rented outside tendering, if state or community owned property is hired out to culture and art organisations (including national art groups and their members setting up their art studios); veterans organisations; disabled people organisations; centres for occupational and social rehabilitation of the disabled and centres for early social rehabilitation of handicapped children entitled to assistance from the state pursuant to the Law of Ukraine 'On the Principles of Social Protection of the Disabled in Ukraine', articles 14-1 and 14-2¹³.

The Ministry of Labour and Social Policy of Ukraine uses all opportunities provided by applicable laws for CSO funding. Pursuant to the Budget Code of Ukraine, article 87, the ministry uses allocations to the State Budget to provide direct financial support to all-Ukraine disabled people and veterans civil society organisations. Since 2009, money for disabled people organisations has been distributed employing a semi-competitive mechanism. Furthermore, in 2010 the Law of Ukraine 'On State Budget of Ukraine 2010' introduced direct support for Ukrainian deaf society (UTOG) and Ukrainian blind society (UTOS).

The support mechanisms themselves are regulated by the Procedure of Use of Funds established by Resolution 236 of the Cabinet of Ministers of Ukraine 'On Approval of the Procedure of Use of State Funds As Financial Support for Organisations of the Disabled in 2008' dated 26 March 2008¹⁴ and Resolution 285 of the Cabinet of Ministers of Ukraine 'On Procedure of Use

¹³ Law of Ukraine 875-12 'On the Principles of Social Protection of the Disabled in Ukraine' dated 21 March 1991 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=875-12>].

¹⁴ Resolution 236 of the Cabinet of Ministers of Ukraine 'On Approval of the Procedure of Use of State Funds As Financial Support to Organisations of the Disabled in 2008' dated 26 March 2008 [Available electronically from zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=236-2008-%E].

of State Funds As Financial Support for Veterans Organisations and to Visit Military Cemeteries and Memorials in 2008' dated 2 April 2008¹⁵. Resolution 32 of the Cabinet of Ministers of Ukraine 'On Procedure of Use of State Funds to Carry Out Particular Programmes in 2009' dated 14 January 2009¹⁶ extended these resolutions into 2009. Pursuant to Resolution 411 of the Cabinet of Ministers of Ukraine dated 9 June 2010¹⁷ and decree 89 of the State Treasury of Ukraine dated 25 May 2004¹⁸, these documents remain in force in 2010.

In accordance with this Procedure, recipients of budget funding are disabled people civil society organisations identified in the Law of Ukraine 'On the Principles of Social Protection of the Disabled in Ukraine', article 12, that have the all-Ukraine status, their local (oblast) divisions, non-production enterprises and divisions of UTOG and UTOS, as well as enterprises and associations of the said societies that use such funding to promote activities of sociocultural subdivisions.

Pursuant to the above Resolution, funding received from the state is used for:

- holding congresses, symposia, meetings, conferences, plenary meetings, rallies, providing trainings, training courses, training workshops, holding festivals, staging exhibitions, concerts, sports events, competitions, provided that disabled people account for at least 60% of the total number of participants, holding round table discussions, events to mark the International Disabled People's Day (excepting smorgasbords and banquets), and participation of representatives of civil society organisations in these and similar international events;

- training of a chairperson and members of tender committees (maximum 6) of disabled people civil society organisations procuring goods, works and services in a manner prescribed by the law;

- carrying out activities of disabled people civil society organisations as decreed by the President of Ukraine;

- domestic contractual publication of books, manuals, guides, booklets, leaflets, especially, using the braille code, in specialised languages and put to sound, as well as newspapers and magazines dealing with social protection of the disabled, money from selling which is used only for the purposes mentioned in this section;

- supporting non-production enterprises and divisions of UTOG and UTOS, as well as enterprises and associations of the said societies that use such funding to promote activities of sociocultural subdivisions, and incentivising of employees at a level not exceeding (including bonuses) 80% of the total funding provided to the said societies;

- supporting disabled people groups within the structure of the all-Ukraine disabled people civil society organisation that provide day care services to people with mental health problems on a special list agreed with the ministry of labour;

- as well as for:

- renting equipment, tools and spaces;
- use of public services based on average rates of consumption;
- use of mailing and electronic communication services;
- routine repairs of tools and premises;
- creation, use and maintenance of a civil society organisation's website, helps, information and accounting programmes, access to email;

¹⁵ Resolution 285 of the Cabinet of Ministers of Ukraine 'On Procedure of Use of State Funds As Financial Support for Veterans Organisations and to Visit Military Cemeteries and Memorials in 2008' dated 2 April 2008 [Available electronically from zakon.nau.ua/doc/?code=32-2009-p].

¹⁶ Resolution 32 of the Cabinet of Ministers of Ukraine 'On Procedure of Use of State Funds to Carry Out Particular Programmes in 2009' dated 14 January 2009 [Available electronically from zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=32-2009-%EF].

¹⁷ Resolution 411 of the Cabinet of Ministers of Ukraine 'On Procedure of Use of Funding Allocated under Some Budget Programmes to the Ministry of Labour and Social Policy in 2010' dated 9 June 2010 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=411-2010-%EF>].

¹⁸ Decree 89 of the State Treasury of Ukraine 'On Approval of the Procedure of Servicing State Budget Expenditures, Lending and Repayment of Loans' dated 25 May 2004 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=z0716-04>].

- purchasing stationery;
- subscription to and purchase of periodicals, reference, information, analytical and methodical guides on social protection and rehabilitation of the disabled, activities of civil society organisations and accounting;
- incentivising of organisation's employees (at a level not exceeding (including bonuses) 35% of the total funding provided to the civil society organisation),
 spending on this, however, not more than 20% of the total funding given to the civil society organisation.

The State Veterans Committee of Ukraine provides support from the State Budget by directly funding statutory activities of veterans organisations and visits to military cemeteries and memorials. Funding allocated to CSOs is a non-refundable assistance for organisations' activities. Actual monitoring of the use of funding per se is lacking, because there is a general understanding that money is allocated for statutory CSO support. An amount of funding given to a particular organisation is determined solely by political loyalty of the management of a veterans organisation to the government. A size and a number of members of the organisation are a secondary factor¹⁹.

The Ministry of Ukraine for Family, Youth and Sports distributes funding between youth- and children organisations solely on a competitive basis. The tender exercise is undertaken on the basis and in a manner prescribed by Resolution 1062 of the Cabinet of Ministers of Ukraine 'On Approval of Tender Procedure for Programmes Drafted by Civil society organisations Aiming Children, Youth, Women, and Family' dated 25 July 2002²⁰.

Presently there is a serious problem resulting from violation of provisions of the Law of Ukraine 'On Youth and Children Organisations'²¹ by the said resolution: it contains discrimination provisions that prevent youth organisations having the international and local statuses from participating in the tender exercise, which reduces competition between the participants materially, and thus adversely affects the quality of the proposed drafts. Nevertheless, the number of tendering organisations and the number of submitted drafts increases every year.

The Ministry of Culture and Tourism of Ukraine also uses all 4 lines of funding by directly and indirectly supporting art groups and respective projects of respective civil society organisations and charities.

In line with article 87 of the Budget Code of Ukraine, section 10, paragraph c, State Budget allocations undertaken by the ministry include spending aimed at government support to civil society culture and art organisations having the national status, especially: National Union of Artists of Ukraine, National Union of Local Lore Experts of Ukraine, National Choreographic Union of Ukraine, National Union of Photographers of Ukraine, National Union of Theatre Workers of Ukraine, National Union of Composers of Ukraine, National Union of Kobza Players of Ukraine, National Union of Cinematographers of Ukraine, National Union of Folk Artists of Ukraine.

The Law of Ukraine 'On State Budget of Ukraine 2010' extended the timescale of two budget programmes – 'Actions Aimed At Revival of Culture of Ethnic Minorities and Provision of Financial Support to Newspapers in Minority Languages' and 'Actions Aimed At Implementation of European Charter for Regional or Minority Languages'. The main distributor of money of these budget programmes is the State Committee of Ukraine for Nationalities and Religions. The Committee allocates funding to support culture and education activities of ethnic minority organisations. Therefore, it can be said that currently the committee gives financial support to civil society organisations using only one instrument – budget funding.

¹⁹ Assessment of the system of government funding of activities of civil society organisations in Ukraine: Analytical study report / UNITER/PACT. – Kyiv, 2010.

²⁰ Resolution 1062 of the Cabinet of Ministers of Ukraine 'On Approval of Tender Procedure for Programmes Drafted by Civil society organisations Aiming Children, Youth, Women, and Family' dated 25 July 2002 [Available electronically from www.uazakon.com/document/spart09/inx09550.htm].

²¹ Law of Ukraine 281-XIV 'On Youth and Children Organisations' dated 1 December 1998 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=281-14>].

The State Committee of Ukraine for Nationalities and Religions considers government support to be a practical mechanism of implementing government policy in the area of preservation of ethnic identity of minorities. In particular, supported by the state, ethnic minorities have the opportunity to hold culture and art festivals, celebrate days of national culture, organise minority language competitions, stage exhibitions of fine arts, hold conferences, congresses, workshops, publish dictionaries, manuals, guidelines for Sunday schools, handbooks in different languages, compendiums providing information on and analysis of national and cultural development, etc.

At the same time, the list of government funding priorities appears not to include other areas of social life the Committee is responsible for as a government body.

Similarly to other government bodies, the State Committee of Ukraine for Television and Radio Broadcasting uses not only competitive, but also a series of other financial support tools. Pursuant to Law of Ukraine 554/97-VR 'On Professional Artists and Artistic Unions' dated 7 October 1997²², within the framework of the budget programme titled 'Financial Support to Artistic Unions in the Area of Mass Media', the said committee provides financial support to the National Union of Journalists of Ukraine, in particular, for statutory activities of the Union's oblast groups. Similarly to other programmes, decisions are approved by the management of the Committee. The adopted rules and procedures for approval of any spending are limited only by the funding procedure.

Within the framework of another budget programme – 'Informing and Cultural Promotion of Crimeans in the Area of Revival and Development of Cultures of Crimean People' – pursuant to Law of Ukraine 2117-XII 'Principles of Culture Legislation' dated 14 February 1992²³, resolution 636 of the Cabinet of Ministers of Ukraine 'On Measures In Order To Solve Political, Legal, Socio-Economic and Ethnic Problems in the Autonomous Republic of Crimea' dated 11 August 1995²⁴ and resolution 1570 of the Cabinet 'On Creation of the All-Ukraine Culture Information Centre in Simferopol' dated 28 December 1996²⁵, the State Committee of Ukraine for Television and Radio Broadcasting funds the above budget-based programme.

There are multiple ongoing tendering programmes on the national level in the area of provision of social services, mini grants and funding of projects/programmes of civil society and charitable organisations, especially:

- 1) grants for gifted youth (Decree 945/99 of the President of Ukraine dated 2 August 2000²⁶);
- 2) tenders launched for programmes mapped out by children, youth, women's and family organisations (Resolution 1062 of the Cabinet of Ministers of Ukraine dated 26 July 2002²⁷);
- 3) tenders for funding to deliver social services (Resolution 559 of the Cabinet of Ministers of Ukraine dated 29 April 2004²⁸);

²² Law of Ukraine 554/97-VR 'On Professional Artists and Artistic Unions' dated 7 October 1997 [Available electronically from zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=554%2F97].

²³ Law of Ukraine 2117-XII 'Principles of Culture Legislation' dated 14 February 1992 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2117-12>].

²⁴ Resolution 636 of the Cabinet of Ministers of Ukraine 'On Measures In Order To Solve Political, Legal, Socio-Economic and Ethnic Problems in the Autonomous Republic of Crimea' dated 11 August 1995 [Available electronically from zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=636-95-%EF].

²⁵ Resolution 1570 of the Cabinet of Ministers of Ukraine 'On Creation of the All-Ukraine Culture Information Centre in Simferopol' dated 28 December 1996 [Available electronically from zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1570-96-%EF].

²⁶ Decree 945/99 of the President of Ukraine 'On Grants for Gifted Youth' dated 2 August 2000 [Available electronically from zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=945%2F2000].

²⁷ Resolution 1062 of the Cabinet of Ministers of Ukraine 'On Approval of Tender Procedure for Programmes Drafted by Youth, Children Civil society organisations and Their Associations Aiming Children, Youth, Women, and Family' dated 25 July 2002 [Available electronically from uapravo.net/data2008/g2002/list8.htm].

²⁸ Resolution 559 of the Cabinet of Ministers of Ukraine 'On Approval of Rules of Tendering for Funds to Deliver Social Services' dated 29 April 2004 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=559-2004-%EF>].

4) tenders launched for projects and programmes of civil society organisations in the area of informing the public on European integration (Resolution 956 of the Cabinet of Ministers of Ukraine dated 30 October 2008²⁹).

A weakness of the above regulations is that they determine a tendering process rather schematically. The most precise outline is given of the process of tenders for funding to deliver social services. At the same time, practically all the analysed documents expect the respective central executive agency, in particular, ministries, to adopt specific instruments for their implementation (evaluation criteria, forms of tenders, etc.). The common feature of the above regulatory instruments is delegating functions in the area of running tender exercises to government bodies other than a body that issues such an instrument.

All the above documents anticipate periodic launching tenders. In line with the above resolutions of the government, tender exercises are clearly linked to the budgeting process – their announcement is preceded by approval of national or local budgets that does not always meet today's pressing challenges.

Tenderers are different from case to case. Potential recipients of grants of the President of Ukraine are citizens of Ukraine. When social services are funded from the budget, tenderers are legal persons (except for state and community owned specialised enterprises and institutions and organisations delivering social services) and natural persons entitled to deliver social services professionally. Applicants for carrying out programmes targeted at children, youth, women and family, as well as informing the public on European integration are civil society organisations registered as legal persons.

It should be also noted that the analysed regulatory instruments mostly fail to answer the question, what evaluation criteria for winners actually are, in a clear and unambiguous way.

Recipients of grants of the President of Ukraine and winners of tenders for projects and programmes targeted at children, youth, family and women are funded from the State Budget of Ukraine. Winners of tenders for funding to deliver social services and inform the public on European integration are funded both from the central and respective local budgets.

At the local level, NGOs receive budget funding using the following procedures:

- social contracts;
- tenders launched for social projects (programmes);
- tenders launched for socio-cultural projects;
- tenders launched for projects of civil society and charitable organisations;
- tenders launched for projects and programmes of non-profit organisations.

It should be noted that close co-operation between CSOs and government bodies on the ground is impossible without political will of local authorities and adequate support from a community.

In practice, however, issues related to local budget funding of projects of civil society and charitable organisations often arise. If a community fails to develop and adopt particular targeted programmes that are mostly not referred to in respective provisions/guidelines and instruments regulating tendering process, the grounds for funding projects of entities that neither allocate budget funding nor implement targeted programmes appear to be doubtful.

At the level of Ukrainian cities, documents are presently approved and in force, that widely vary in their complexity, structure and quality – from rather detailed and complex descriptions of procedures to declarative documents that do not regulate any procedural issues practically at all.

Models of social contracting and municipal grants currently widespread in Ukraine are aimed at providing both general support to community beneficial activities of NGOs that often follow social lines and support to specific target groups, especially, young people, or direct involvement of NGOs in delivery of social services. Hence, local NGO funding models in force in

²⁹ Resolution 956 of the Cabinet of Ministers of Ukraine 'On Approval of Civil society organisations Tendering to Carry Out Projects and Programmes In the Area of Informing the Public on European Integration' dated 30 October 2008 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=956-2008-%EF>].

Ukraine can be conditionally split into implementation of the system of municipal grants and use of social contracting mechanisms.

One of the main mechanisms ensuring implementation of strategies and concepts of the country's socio-economic development is, in particular, development, approval and carrying out of targeted programmes at different levels. They are used for fulfilment of the regulatory requirement for planning and prediction of delivery of social services, tackling of particular problems on the ground requiring central and local budget funding.

At the regional level, the existence of a problem requiring use of budget funding, co-ordination of combined activities of local executive agencies and local authorities, enterprises, institutions and organisations, provision of real resources for carrying out planned activities by the local budget make it possible to implement respective local programmes at oblast, rayon, city or town levels.

The Procedure for Engaging Citizens in Making and Implementation of Government Policy approved by Resolution 10 of the Cabinet of Ministers of Ukraine dated 6 January 2010³⁰ introduces mandatory public consultations on national and regional economic, social and cultural development programmes, implementation status decisions. Therefore, the state aims at engaging citizens and CSOs in making and implementation of government policy, monitoring of activities of government bodies, access to information.

The issue of funding targeted programmes in Ukraine is regulated by the Law of Ukraine 'On Targeted Government Programmes'³¹ saying that the Targeted Government Programme is a system of interconnected actions aimed at coping with the most important challenges in development of the state, particular economic sectors or administrative units, that is funded from the State Budget of Ukraine and agreed in terms of its timelines, implementors, resources.

Aiming at implementation of provisions of the above law, the ministry of economy of Ukraine developed the relevant decree³² approving recommendations as to methods of mapping out targeted regional programmes, their monitoring and reporting. This provision says that the targeted regional programme is an aggregate of interconnected tasks and actions agreed in terms of its timelines and resources with all implementors and aimed at coping with the most important challenges in development of the region or particular economic or socio-cultural sectors of the region, that is funded from the local budget and is a component of respective annual programmes of socio-economic development of the Autonomous Republic of Crimea, oblasts, Kyiv and Sevastopol Cities.

The programme is deemed to be integrated, if it combines multiple related programmes within the respective sector and provides for their funding under multiple codes of functional classification of local spending.

The initiator of development of programmes can be a local executive agency, local authority.

The programme is developed based on:

- existence of a regional problem requiring use of budget funding, co-ordination of combined effort of local executive agencies and local authorities, enterprises, institutions and organisations, provision of real resources for carrying out planned activities by the local budget make it possible to implement respective local programmes at oblast, rayon, city levels;
- provision of real resources for carrying out planned programme activities by the local budget and meeting regional development priorities by the aim of the programme.

³⁰ Resolution 10 of the Cabinet of Ministers of Ukraine 'On the Procedure for Engaging Citizens in Making and Implementation of Government Policy' dated 6 January 2010 [Available electronically from zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=10-2010-%EF].

³¹ Law of Ukraine 1621-IV 'On Targeted Government Programmes' dated 18 March 2004 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1621-15>].

³² Decree 367 of the Ministry of Economy of Ukraine dated 4 December 2006 [Available electronically from <http://www.yurist-online.com/zakoni/007/04/012399.php>].

Priorities for involvement of civil society organisations in regional development programmes can be:

- mobilisation of local communities and transformation of their needs into programmed provisions;
- organisation of protection of user rights;
- development of regional trade unions in line with EU standards;
- monitoring of policy and practice of local authorities and donors;
- implementation of socially-oriented projects, delivery of social services;
- analysis of needs of local communities and making them known to government bodies, proposals of respective projects and their implementation.

Having outlined the legal ground where process of CSO funding by government bodies and local authorities is regulated, we can not ignore practices and problems arising in the process of government funding. On 16 December 2009 in Kyiv, the Ukrainian Centre for Independent Political Research conducted a thorough research – in-depth interview 'Assessment of the system of government funding of activities of civil society organisations'³³ the main objective of which was to research the assessment of problems arising in the process of government funding of projects and programmes of civil society organisations by their heads. The target group of this focus group research was selected civil society organisations having experience of receiving government funding for their projects. The organisations' representatives were selected from civil society organisations that, according to information placed on websites of central executive agencies of Ukraine, received government funding in 2007-2009.

General discussion confirmed that ministries and other executive agencies prioritise CSO project funding based on purely departmental responsibilities. Participants said that project selection criteria and transparency of ministerial decision-making remained obscure to most organisations.

For example, the Ministry of Emergencies of Ukraine does not invite CSOs to tender, and continually works with a few all-Ukraine civil society organisations. A particular amount of funding is considered based on the annual application by the organisation and consultations with representatives of the ministry.

Allegedly in order to ensure intended use of money and prevent duplication of assistance, the said ministry requires each individual receiving government assistance to be a member of the All-Ukraine organisation, Chornobyl Union of Ukraine, and submit membership application in the individual's home rayon or city. Such a requirement directly contravenes the applicable Law of Ukraine 'On Citizens' Associations'³⁴, article 2, but protects partners of the ministry against competition.

At the beginning of the year, the tender commission of the Ministry of Labour and Social Policy of Ukraine reviews funding proposals (tenders). Composition of the commission is approved by the minister's decree. The tender commission includes one annually rotating representative of civil society organisations; other members of the commission are from respective departments of the ministry.

The Law of Ukraine 'On the Principles of Social Protection of the Disabled in Ukraine'³⁵ binds the state to provide financial support to all-Ukraine disabled people civil society organisations. In order to select some of dozens of such organisations, the Ministry of Labour and Social Policy of Ukraine analyses the work of applicant civil society organisations over the preceding year. Furthermore, the Ministry of Justice of Ukraine is requested to prove their all-Ukraine status, and

³³ In-depth interview 'Assessment of the system of government funding of activities of civil society organisations' [Available electronically from <http://www.ucipr.kiev.ua/modules.php?op=modload&name=News&file=index&catid=26&topic=>] / Ukrainian Centre for Independent Political Research. – 2009.

³⁴ Law of Ukraine 2460-XII 'On Citizens' Associations' dated 16 June 1992 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2460-12>].

³⁵ Law of Ukraine 875-XII 'On the Principles of Social Protection of the Disabled in Ukraine' dated 21 March 1991 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=875-12>].

should the status of some organisations not be proved, they might not be entitled to government funding.

The largest part, especially, means for incentivising employees, continually falls to UTOG and UTOS, and other civil society organisations are thought by participants in the discussion to be funded by the Ministry of Labour and Social Policy of Ukraine applying the residual principle. Besides tenders, each organisation receiving government funding from the said ministry should write questionnaires for their own programmes. As a rule, the ministry support unique activities, and if similar activities are proposed by multiple organisations, the ministry decides whom to support at its discretion.

According to those interviewed, composition of the tender commission of the Ministry of Ukraine for Family, Youth and Sports is changed every year by the minister's decree. The commission should include representatives of civil society youth organisations. Representatives of organisations submitting projects were previously banned from participation in the tender commission, but this ban, in fact, is not complied with. In the process of tenders launched for youth organisations, projects are submitted and justified to the tender commission by managers of organisations or projects personally. At the same time, participants in the discussion confirmed that the number of allocations of government funding to organisations that did not receive it previously increases every year.

As a rule, ministries other than the Ministry of Ukraine for Family, Youth and Sports do not contract with CSOs whose projects were supported. For example, the Ministry of Labour and Social Policy of Ukraine issues a decree approving the checklist on the budget programme. The first deputy minister approves plans of the use of funding for the civil society organisation (the third counterpart of the document is delivered to the treasury).

As regards possible improvement of the procedure, the ministries do not have any 'one-stop shop' for the tender process, therefore, documents are to be visaed by different officials and even at different offices. Furthermore, an excessive number of documents are to be notarised. This takes a lot of time and even sometimes hampers tendering.

Those interviewed also repeatedly confirmed that government funding of CSO projects significantly differs from procedures prescribed by law. At the same time, government funding procedures are departmentally specific on such important issues as payment timelines, CSO contribution requirements.

For example, at the beginning of the year the Ministry of Labour and Social Policy of Ukraine issues an allocation plan, an approval of the checklist on the budget programme, and a limitation. On official request, the Ministry of Finance of Ukraine transfers money to a CSO account. If budget money is not received on the account, it becomes the organisation's accounts payable, but this does not help CSO activities in any significant way.

Furthermore, budget allocations are rather conditional: only 50% of the budgeted amounts is paid actually. Advances are not currently applied, though in 2007-2008 such a practice was usual, which undoubtedly suited most CSOs.

Participants in the discussion also confirmed that no ministry covers 100% of costs of civil society organisations, and it has been continually emphasised that CSOs can receive grants, set up subsidiaries, and have other sources of additional funding. Therefore, their own contribution is virtually critical for receiving government finding. As a rule, contribution of CSOs accounts for 25% of funding of youth organisations, and organisations have to carry out some activities using only their own money. In some projects, such a contribution is too large.

The Ministry of Ukraine for Family, Youth and Sports requires the contribution to be in the form of money rather than volunteering, use of equipment, etc. For example, CSO contribution can be accepted as rent by the organisation or its partners.

A significant problem also arises from lack of periodic budget tranches (in contrast to grants from international organisations) which compels organisations to use their own money much of the year or even all year long. Budget funding is distributed without assessing needs of disabled

people and other target groups, and organisations simply try to break down annual allocations month by month.

Furthermore, the above interview conducted by the Ukrainian Centre for Independent Political Research confirmed that the State Treasury applies daily limits to funding of the so called 'unprotected' expenditure. Budget classifiers do not place government support given to programmes and projects of civil society organisations among protected expenditures, and thus, CSOs have to divide maximum possible costs between such protected items as wages (code 1111), public services (code 1160), catering provided to participants, etc. This reduces effectiveness of many activities significantly.

For example, the Procedure for Use of State Funds to Provide Financial Support to Disabled People Civil Society Organisations³⁶ allocates up to 35% of budget funding to incentivising employees of the organisation. But respective code – 1310 – of the budget classifier does not belong to protected expenditures, therefore, CSOs can not virtually use this money before the end of financial year.

Treasury agencies can retain notes to pay unprotected expenditures for up to 10 days, until the permission is given, which prevents organisations from carrying out many activities practically at all.

The above Procedure imposes many unreasonable restrictions on uses of funding. For example, it recognises only renting, and not purchase and repairs of fixed assets (code 2000), office equipment, etc. It is also problematic to civil society organisations to fulfil some other requirements of the Procedure, such as participant quotas fixed at minimum 60% of disabled people.

Currently, there are also wide differences in departmental practices of reporting, control, monitoring and assessment of CSO projects. In particular, quarterly and annual reporting to the Ministry of Emergencies of Ukraine is assumed to be simple and quite adequate, and does not result in any conflicts between CSOs and ministerial departments.

Reporting to the Ministry of Labour and Social Policy of Ukraine allows government officials to understand CSO activities in general, evaluate effectiveness of the use of money and outcomes of particular activities. However, it is much more in scope than in case of the Ministry of Emergencies.

Reporting requirements of the Ministry of Ukraine for Family, Youth and Sports are neither excessive. On the ministry's website, there is a special electronic page where civil society organisations receiving state funding publish their reports on their own. Such a condition is included in contracts, and copies of what organisations publish on the page should be attached to their reports.

Organisations submit mandatory reports at the end of projects – due to special timelines of state funding the reporting takes place as a rule in the second half of the year. If projects are limited to particular activities (conferences etc.), reports are submitted in one-two months. Project reports are often published by civil society organisations or their partners on their own websites. Websites of all the above ministries contain plans of actions determining participation of particular CSOs.

Participants in the discussion confirmed that the Ministry of Finance of Ukraine's Control and Audit Department continually controls the use of budget funding pursuant to law.

Programmed (operational) control mainly covers particular activities involving representatives of ministries producing their own reports. However, due to limited funding of similar expenditures from the budget, this control is rather formal.

For example, whilst CSOs did not previously provide the Ministry of Labour and Social Policy of Ukraine with any information to be used in assessment of effectiveness of activities, now provision of information on activities carried out is mandatory, in the same way as invitation of the ministry's representatives writing separate conclusions. However, the assessment of effectiveness of activities is rather formal, uses a score system and does not deal with qualitative changes.

³⁶ Resolution 236 of the Cabinet of Ministers of Ukraine 'On Approval of the Procedure for Use of State Funds to Provide Financial Support to Disabled People Voluntary Organisations in 2008' dated 26 March 1998 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=236-2008-%EF>].

Currently, the prevalent view among CSOs is that a special resolution of the Cabinet of Ministers is needed for all the ministries to use a common tendering process to be based on approved priorities. But, although unified rules must also allow for moves of individual ministries to some extent, the problem is how to avoid duplication of departmental functions.

Importance of the research and use of practical experience of European countries in the area of state funding of projects of civil society organisations has been emphasised more than once already, but Ukraine continues to fund networks of such organisations or cover protected expenditures rather than delivery of particular services by CSOs.

2.2. Funding from the private sector and individual citizens

Civil society organisations receive around one-third of funding in the form of money and property given by private donors – legal and natural persons – as a non-refundable financial assistance (see table 1).

CSO incomes from non-refundable assistance varies very immaterially, for example, they slightly increase in years of presidential or parliament elections or decrease when tax reliefs cease to be given on other CSO incomes.

Pursuant to applicable laws (Law of Ukraine 'On Enterprise Profit Tax', article 1, section 1.22)³⁷, non-refundable financial assistance to CSOs includes:

1) money transferred under gift and other contracts not requiring compensation or repayment of money (except for budget grants and subsidies), or without entering into these contracts;

2) bad debts repaid after their writing off, if these bad debts were previously incorporated into total costs of the lender;

3) debts to another person not recovered within time limits allowed for claims (as a rule, these are three years);

4) a loan or deposit given without setting time limits for repayment of the principal sum, other than loans secured with unlimited bonds and call deposits with banks, including interest on the loan or deposit;

5) interest conditionally charged on refundable financial assistance not repaid by the end of the reporting quarter at a rate fixed by the National Bank of Ukraine on the day of actual use of such non-refundable financial assistance.

Sometimes donor enterprises want their contribution to CSO activities to be publicised. However, it has been not decided so far, whether income from sponsorship – publicising the name or trademark of the sponsoring enterprise – should be regarded as non-refundable financial assistance.

Though it is funding in the form of money that prevails in Ukraine, its specific type is also distinguished – goods and services delivered to CSOs free of charge (Law of Ukraine 'On Enterprise Profit Tax', article 1, section 1.23)³⁸, that include:

1) goods delivered as gifts and under other contracts not requiring monetary or any other compensation of value of tangible and intangible assets or their return, or without entering into such contracts;

2) works and services delivered without requiring compensation of their value;

3) goods put in trust that are used by CSOs in their production or business turnover.

CSO representatives and experts have again and again pointed out that inadequacy and instability of tax incentives created for local private donors, especially, legal persons, are the main obstacle to fundraising by CSOs.

³⁷ Law of Ukraine 334/94-VR 'On Enterprise Profit Tax' dated 28 December 1994 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=334%2F94-%E2%F0&p=1288600175262795>].

³⁸ Law of Ukraine 334/94-VR 'On Enterprise Profit Tax' dated 28 December 1994 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=334%2F94-%E2%F0&p=1288600175262795>].

Pursuant to the Law of Ukraine 'On Enterprise Profit Tax', total costs of enterprises paying income tax at the standard rate may incorporate value of money or property delivered to CSOs free of charge that amounts to 2-5% of taxable profit gained in the previous reporting year, as well as up to 10% of taxable profit in case of providing assistance to enterprises of all-Ukraine associations of Chernobyl victims in which employment of such persons is at least 75%, and charitable activities of such associations³⁹.

However, the above reliefs given to donors are a necessary, though apparently insufficient move of government policy, should its expected outcome be more stable funding of Ukrainian CSOs by local donors. At the same time, the Tax Code that passed its first reading this year and *virtually destroys the simplified taxation and accounting system and thus jeopardises the very existence of small and a large part of medium business will result in the closure of over 60% of private entrepreneurs (as shown by the survey on the Private Entrepreneur website⁴⁰), which would adversely affect contributions from private donors as a source of CSO funding.*

Furthermore, giving money or property does not currently change tax liabilities of legal persons and entrepreneurs that chose to use the simplified taxation system. That is, they can fund CSOs only using their net profit. Nevertheless, before adoption of the law on the simplified system of taxation of small businesses, government policy is unlikely to undergo any changes, though profit accounting and taxation need to be more specific (e.g. profits from tours and other charity events CSOs benefit from).

In Ukraine, many entrepreneurs and enterprises state zero profits or losses every year. Contributions to CSOs may not be incorporated into losses or total costs where profit is not gained, therefore, a large group of local donors can not legally fund CSOs by making charitable donations altogether.

Should government policy be aimed at achieving not only short-term fiscal outcomes but also more transparency in financial activities of CSOs, such a situation can not be justified. In general, international experience shows that actual level of support given to charities and non-profit organisations by the business does not depend on provision of tax reliefs and the presence of stated profit. However, transparency and possible monitoring of intended use of this assistance mainly depend on adequate government policy. In our country, business structures would better make charitable donations from their own net profit than use such reliefs.

In many countries, CSO funding benefited from regulations incorporating CSO contributions amounting to 0.2-0.3% of total income of donor enterprises into their total costs. The similar option based on donor's costs as paying wages and remuneration is already in place in Ukraine pursuant to the Law of Ukraine 'On Enterprise Profit Tax', but it applies only to contributions to employers' organisations that also have civil society status. This relief can be also used by making charitable contributions to CSOs and budget-funded organisations and institutions that also have non-profit status. Therefore, in fact, CSOs have often to compete for limited resources with budget-funded institutions, which does not only undermine their financial stability, but also can give rise to negative attitudes towards co-operation between CSOs and government bodies and cause a conflict of interest within some government bodies.

Given practical experience of co-operation between Ukrainian CSOs and their local donors, relatively more effective means for fundraising are those provided by social marketing, that is, selling goods and services with deducting a part of the price for specific social projects of CSOs. In particular, they include different charity events, such as raffles, sellouts to the highest bidders,

³⁹ Law of Ukraine 334/94-VR 'On Enterprise Profit Tax', article 5, section 5.2., dated 28 December 1994 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=334%2F94-%E2%F0&p=1288600175262795>].

⁴⁰ [Available electronically from http://www.chp.com.ua/persp_43.php].

discount and debit cards, bonuses and tickets promoting aims and logos of CSOs in the process of selling goods and services by business companies or entrepreneurs.⁴¹

Article 1 of Law of Ukraine 531-97/VR 'On Charity and Charitable Organisations' dated 16 September 1997⁴² says that charitable activities are voluntary non-profit donations by natural and legal persons to provide material, financial, organisational and other charitable assistance to recipients; specific charitable activities are patronage and sponsorship.

Imposition of value added tax on charity transactions will depend on what type of organisations receive charitable assistance from the enterprise – non-profits or profits. If charitable contributions go to profit organisations, tax is charged on charitable contributions in the same way as in case of delivery free of charge. However, since goods (works, services) are purchased for charitable purposes, based on the Law of Ukraine 'On Value Added Tax'⁴³, subsection 4.4, there will not be any entitlement to a tax credit equal to value added tax (VAT) on the value of these goods will not arise.

Subsection 5.1.21 of the VAT Law gives a tax relief on charitable contributions to non-profit organisations listed in the Law of Ukraine 'On Enterprise Profit Tax', subsection 7.11.1, paragraphs 'a', 'b', 'f'. Charitable delivery of goods, works, services to such organisations is exempt from VAT. However, this relief is given subject to meeting certain conditions.

Firstly, the provided charitable assistance should not have any implications of compensation by its recipient. Otherwise, this will be considered to be deliberate avoidance of taxation by the provider of charitable assistance. Secondly, recipients of charitable assistance shall comply with the requirements of the Procedure for Distribution of Goods Received as Charitable Assistance and Control Over Targeted Distribution of Charitable Assistance in the Form of Delivered Services or Performed Works approved by resolution 1295 of the Cabinet of Ministers of Ukraine dated 17 August 1998⁴⁴.

VAT exemption does not apply to charitable donations of excisable goods (works, services), securities, intangible assets and goods (works, services) destined for business use, as well as those imported into the customs area of Ukraine, except for goods under international treaties that were given assent by the Verkhovna Rada of Ukraine.

Based on subsection 7.4.2 of the VAT Law, an enterprise that donates goods and has VAT credit is not entitled to VAT credit on purchase of these goods.

In case goods are purchased for the purpose of their further use in taxable transactions that are part of the taxpayer's business, and to further provide charitable assistance to non-profit organisations referred to in subsection 5.1.21 of the VAT Law, and VAT is incorporated into the VAT credit, then in accordance with the last paragraph of the VAT Law's subsection 7.4.1, this tax is charged on standard price of goods delivered as charitable assistance.

If an enterprise states VAT as a component of a VAT credit as buying materials to be used in making of finished products that will be delivered as a charitable assistance, VAT is charged on a part of materials used to make products delivered for charitable purposes.

The taxpayer's total costs include money or value of goods (works, services) voluntarily transferred (delivered) to the State Budget of Ukraine or local budgets, non-profit organisations

⁴¹ Analytical report 'Funding of Civil Society Organisations (CSOs) in Ukraine', 2006 [Available electronically from <http://www.ucipr.org.ua/modules.php?op=modload&name=News&file=article&sid=5368&mode=thread&order=0&thold=0>].

⁴² Law of Ukraine 531-97/VR 'On Charity and Charitable Organisations' dated 16 September 1997 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=531%2F97-%E2%F0&p=1288600175262795>].

⁴³ Law of Ukraine 168/97-VR 'On Value Added Tax' dated 3 April 1997 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=168%2F97-%E2%F0&p=1288600175262795>].

⁴⁴ Resolution 1295 of the Cabinet of Ministers of Ukraine 'On Approval of the Procedure for Distribution of Goods Received as Donation and Control Over Targeted Distribution of Donations in the Form of Delivered Services or Performed Works' dated 17 August 1998 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1295-98-%EF>].

referred to in the Law of Ukraine 'On Enterprise Profit Tax'⁴⁵, section 7.11, in the reporting year, money transferred to legal persons including non-profit organisations that are founders of a permanent arbitration court, exceeding 2 %, but not exceeding 5 % of taxable income received in the preceding reporting year, except for contributions referred to in subsections 5.6.2 and 5.2.17 of the law.

Pursuant to subsection 7.11.1 of the above law, non-profit institutions and organisations include:

a) government bodies of Ukraine, local authorities and institutions or organisations that are established by them and rely on funding from respective budgets;

b) charities established in a manner prescribed by law to carry out charitable activities, including civil society organisations created in order to carry out environmental, recreation, amateur sports, cultural, educational and research activities, as well as art groups and political parties, disabled people civil society organisations and their local groups set up pursuant to the Law of Ukraine 'On Citizens' Associations'⁴⁶, research institutions and accredited universities (levels 3 and 4) that are on the State Register of State-Supported Scientific Institution, preserves, museums;

c) legally established pension funds, credit unions;

d) legal persons other than those referred to in paragraph 'b' of this subsection, whose activities are not aimed at gaining profit in line with provisions of respective laws;

e) unions, associations and other groups of legal persons that are established to represent interests of their founders, rely solely on contributions by such founders, and do not conduct any business, except for receiving passive income;

f) legally registered faith-based organisations;

g) legally set up housing co-operatives, groups of co-owners of blocks of flats;

h) legally established professional groups, their associations and trade unions.

Depending on the status of a non-profit organisation, subsections 7.11.2-7.11.14 of the Law of Ukraine 'On Enterprise Profit Tax' identify types of income exempt from profit tax.

Therefore, an enterprise that gave money or goods, works, services is entitled to incorporate these into total costs, provided that they exceed 2% and not exceed 5% of taxable income received in the past reporting year. The donor can refer to 'relief-giving' subsection 5.2.2 of the Law of Ukraine 'On Enterprise Profit Tax' subject to the evidence of the recipient's non-profit status. Non-profit evidence is a copy of a decision to put the organisation (institution) on the Register of Non-Profit Organisations (institutions), remove it from or not to put it on the Register (hereinafter called the Decision) made in a form shown in appendix 2 to the Provision on the Register of Non-Profit Organisations and Institutions approved by decree 232 of the State Tax Administration of Ukraine dated 11 July 1997⁴⁷.

Charitable activities of private persons in Ukraine are gradually beginning to develop due to fundraising actions and campaigns undertaken by civil society organisations⁴⁸. Unfortunately, quite few citizens are interested in social life because of a low standard of living, though people's interest in civil society is growing, in the first place, due to brisk political life of Ukraine. Private charitable activities are carried out in several ways: those from rich groups establish their own charitable structures mainly aimed at promoting their own image. In contrast, some rich citizens engage in charitable activities anonymously. However, resources of such funds are generally inaccessible to civil society organisations because donors are willing to contact with recipients directly. Another way is to engage in charitable activities through small donations by wide groups of people, which

⁴⁵ Law of Ukraine 334/94-VR 'On Enterprise Profit Tax' dated 28 December 1994 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=334%2F94-%E2%F0&p=1288600175262795>].

⁴⁶ Law of Ukraine 2460-XII 'On Citizens' Associations' dated 16 June 1992 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2460-12>].

⁴⁷ Decree 232 of the State Tax Administration of Ukraine 'On Approval of the Form of Report on the Use of Money of Non-Profit Organisations and Institutions and the Guidance on Filling It Out' dated 11 July 1997 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=z0290-97>].

⁴⁸ Whether percentage philanthropy is possible in Ukraine [Available electronically from philanthropy.org.ua/chimozhlyva-vidsotkova-filantropiya-v-ukraini] / Centre for Philanthropy.

takes place at the level of a community and is often stirred in response to social crises or organisations' moves. One more way that can not be termed charitable activity in the true sense of the word is membership subscriptions (some CSOs, especially, trade unions rely on membership subscriptions). Unfortunately, receiving private donations is rather complex procedure, technically. There are only two ways available to organisations to collect donations – cashless, when money is transferred to the organisation's settlement account, or in cash, when money is given to the cashier of the organisation. The both ways are technically embarrassing, especially, to donors.

The state supports private charitable activities by giving a tax relief amounting to 2-5% of the annual taxable income to natural persons⁴⁹. However, this provision is limited to taxpayers, applies only to wages and does not allow for interests of the retired, non-working people, natural persons conducting business. This provision neither applies to non-profit membership subscriptions. Therefore, donating natural persons do not exercise their right to be given a tax relief on their donations and other contributions to CSOs practically at all. Taking into account low income tax rates set for natural persons and their absolute incomes in the form of wages, tax reliefs given to donating natural persons in Ukraine are not considered to be critical for CSO funding. This also applies to Ukraine's potential use of provisions covering the so called 'percentage philanthropy' widespread in Central and Eastern Europe. Here a natural person may ask tax agencies to deduct a percentage of a tax charged on the person's income in favour of community benefit organisations recognised by law.

Furthermore, natural persons provide assistance to CSOs mainly in the form of free-of-charge services and volunteering that are not currently included in tax returns and national statistics. Ukraine has already a few regulations in force that cover volunteers. However, a special Law is still lacking, in contrast to, for example, Spain, despite attempts to pass it. In particular, the draft Law of Ukraine 'On Volunteering' was introduced to the Verkhovna Rada of Ukraine in 2007. So far, the legal status of volunteers is in fact uncertain and brings CSO staff, elected officials and providers of free-of-charge services under the same category.

The Civil Code of Ukraine provides CSOs with strong funding opportunities also under succession law (wills, claims and contracts of succession, as well as will-based establishments)⁵⁰. But since 2004 when this code came into force, too little time has passed for the practice to become common in Ukraine.

2.3. Funding from delivery of paid services

Tackling CSOs' financial sustainability problems is negatively affected in a considerable way by de facto prohibition (with some nuances) of conduct of business.

The Law of Ukraine 'On Citizens' Associations'⁵¹ allows civil society organisations to engage in business activities only by establishing self-governing institutions and organisations having the legal status. At the same time, while this is allowed by the Economic Code of Ukraine, CSOs shall use the gained profit for statutory purposes. In practice, this sometimes results in an one-sided interpretation of applicable legislation by tax agencies, and thus some CSOs lose their non-profit status. In its turn, this limits sources of funding and undermines financial sustainability of organisations. Complicated process of registration of business activities of civil society organisations departs from the practice of advanced countries where non-profits are entitled to the same subject to the use of profits for statutory activities, without any other limitations and interpretations.

⁴⁹ Law of Ukraine 889-IV 'On Personal Income Tax', article 5, section 5.3.2, dated 22 May 2003 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=889-15&p=1288600175262795>].

⁵⁰ Civil Code of Ukraine 435-IV dated 16 January 2003 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=435-15&p=1288600175262795>].

⁵¹ Article 24 of Law of Ukraine 2460-XII 'On Citizens' Associations' dated 16 June 1992 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2460-12>].

As addressing issues related to regulation of CSO activities and their taxation, one should very precisely know what such activities are. CSOs can have a bank account, investments in securities and other investments producing income in the form of dividends and increase in market value. There are also periodic activities such as charity lotteries and auctions. However, the above activities are considered to be a sort of attracting contributions and are also non-business. For example, museum entry fees or charges for services of a charity medical centre are not seen as a trade or business activities, and mostly are token. Tax laws of some countries expressly state that incomes from such sources are non-business, and though other laws say nothing about it, it is a tradition.

As regards business in such areas as selling goods and delivery of services, it is difficult to determine whether such activities are not-for-profit. For example, work for physically handicapped persons is aimed at employment rather than conduct of business and gaining profit. Furthermore, increasingly more organisations work under contracts binding them to deliver goods and services to third parties (for example, educational programmes), and these organisations themselves see these activities as principal.

In some countries, for instance, in Poland, non-business and business activities can be carried out by the same organisation, whilst in other countries, for example, in Great Britain, only a CSO's subsidiary can have business activities. But anyway, profit tax is not paid. French CSOs can not engage in business activities, so there is simply no taxation.

In most countries, CSOs are allowed to conduct business to support their principal activities, however, subject to two conditions being met: the organisation's profit is not distributed and is used for principal activities; the organisation is established and exists in order to achieve non-business aims. A criterion proposed to assess when NPO can engage in business activities is termed the 'principal aim'. Based on this criterion, NPO conducting business that accounts for more than one half of its activities loses its status and reliefs⁵².

An alternative is the 'income aiming'. According to this criterion, the organisation would be given reliefs as long as the income from business activities is used for achievement of humanitarian aims. The latter concept has been traditionally thought to be better, because it becomes possible to develop the non-profit sector of transitional economies. However, the problem is nothing but taxation, the global practice of taxation covers the whole spectrum of possibilities, from prohibition of business activities to allowing them without any limitations. In Bulgaria, business profit is taxed irrespective of its use; in Poland, profit used for achievement of NPO aims is non-taxable.

Allowing non-governmental organisations to conduct business in order to support their statutory activities is very important, especially, in countries with underdeveloped private capital. The conduct of business permission can considerably support the non-profit sector in the recession. The main problem with regulation of taxation of NPO activities is defining limits and scope of activities a non-profit organisation can engage in. In general, non-profits compete with businesses not only in the market, but also for government contracts. The main argument against tax reliefs on non-principal activities of NPOs is the risk of undermining activities of the business sector.

An important source of financial strengthening of CSOs can become delivery of paid services, especially, to the state. Government procurement processes can involve any legal persons including CSOs. These processes are mandatory, if the procurement cost exceeds 100,000 hryvnias (goods), or 300,000 hryvnias (works) (Law of Ukraine 2289-IV 'On Government Procurement' dated 1 June 2010⁵³).

Currently, CSOs participate almost solely in open tendering processes having a regulatory framework that is the largest among six legal processes (closed tenders, two stage tenders, quotations, single contractor schemes). Involvement of CSOs in the tendering process is limited by

⁵² Legislative regulation of activities of non-profit organisations: Global experience and recommendations for Ukraine [Available electronically from http://www.parlament.org.ua/index.php?action=publication&id=8&ar_id=42&as=0] / Laboratory for Legislative Initiatives. – 2001.

⁵³ Article 2 of Law of Ukraine 2289-IV 'On Government Procurement' dated 1 June 2010 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2289-17&p=1288600175262795>].

several factors. Firstly, contractor qualification requirements allow most CSOs to be directly or indirectly excluded from tendering based on territorial status, the number of staff or non-provision of a tender guarantee (a percentage of the procurement cost). Great number of business activities are also subject to licensing or certification by the state and are to be entered in special state registers which does not always allow CSOs to remain non-profit.

One of conditions to government funding of CSOs that deliver social services or participate in processes of government procurement of other services are the absence of debts to the budget and availability of an auditor's opinion. Writing off and delayed paying debts to budgets and targeted government funds being prohibited, it is not so easy for small CSOs to comply with these quite justified requirements.

The Law of Ukraine 'On Amending Some Laws of Ukraine Aimed At Simplifying Conduct of Business in Ukraine'⁵⁴ repeals particular provisions of the Law of Ukraine 'On Social Services', especially:

- 'non-government entities willing to professionally deliver social services relying on their own money, attracted money or funding from the central and local budgets, shall deliver them under a license in a manner prescribed by the Cabinet of Ministers of Ukraine';
- 'professional activities in the area of delivery of social services are subject to licensing in a manner and order prescribed by the Cabinet of Ministers of Ukraine'.

This law creates more favourable environment for CSOs, enterprises and institutions set up by them to deliver social services than it was previously thanks to the following changes:

- reduction of the minimum level of chartered capital of limited liability companies from 100 minimum wages to one (from 66,900 hryvnias to 907 hryvnias (as of 1 October 2010)), which correlates with the European approach;
- setting a minimum five-year period for renting state and community owned property (except when a tenant proposes a lesser period);
- establishing a moratorium on increase of the current state property rental by January 2011;
- change in licensing business activities involving some civil society organisations and their enterprises since 28 February 2010;
- cancellation of the requirement for licensing of CSO activities in the area of social services;
- limitation of the period of issue of permissions (to 10 business days);
- applying the following principle to all the permissions: when a permission or ineligibility notice is not issued within ten days, the permission is deemed to be obtained without the receipt of a respective document.

Certainly, these changes are positive, but they do not suffice to create an environment that would favour CSO functioning and activities aimed at delivery of these services. It should be noted that information on charity events and social services is not recognised as social advertising, and thus is not exempt from taxes. The Law of Ukraine 'On Renting State and Community Owned Property'⁵⁵ requires all CSOs, excepting culture and art groups, veterans and disabled people civil society organisations, to tender for renting state and community owned property they will use to carry out their activities. CSOs that won project tenders are not allowed to rent premises they need in order to engage in their activities without an additional tender exercise. Furthermore, governmental standards and provisions covering quality of delivery of social services are lacking so far, and there are not government programmes in place to provide training and certification of volunteers delivering social and community benefit services on the long-term basis⁵⁶, which, in its turn, also hampers the development of the market of social services.

⁵⁴ Law of Ukraine 1759-IV 'On Amending Some Laws of Ukraine Aimed At Simplifying Conduct of Business in Ukraine' dated 15 December 2009 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1759-17>].

⁵⁵ Law of Ukraine 2269-12 'On Renting State- and Community-Owned Property' dated 10 April 1992 [Available electronically from <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2269-12>].

⁵⁶ Government funding of civil society organisations. How will European standards be implemented? / [All-Ukraine Conference Papers]; Ukrainian Centre for Independent Political Research seconded by UNITER Project and National Endowment for Democracy (NED). – [Available electronically from <http://gurt.org.ua/news/conferences/5535/>].

Ukrainian budget laws leave delivery of social services to government institutions a priori. Consequently, the whole budget policy is aimed at maintaining budget-funded institutions and their orientation to the needs of citizens, though, there are some positive trends in funding CSOs willing to deliver such services.

However, the legislation and political will of deputies limit CSO's access to government funding (in fact, it mostly comes only through local budgets), and thus the state budget does not provide for conditions and size of subventions aimed at carrying out targeted social service delivery programmes. Only 10% of Ukrainian cities fund CSOs delivering social services by launching social project tenders, which ensures more transparency and effectiveness of their activities and their orientation to the citizens' needs. Other communities distribute money 'manually'.⁵⁷

Major weaknesses of the social contracting system are also associated with lack of necessary reliable information. On the one hand, not having enough resources, civil society organisations do not inform the general public about social services they deliver, and on the other hand, some parties to social co-operation are not interested in dissemination of particular information (for example, related to consultations on budget items between local authorities and charitable activities of business structures). Exchanges of information, knowledge and experience will promote development of each of them⁵⁸.

We would also like to pay attention to two important problems faced by CSOs as delivering paid services. Pursuant to amended Law of Ukraine 2642-IV 'On Value Added Tax' dated 3 June 2005, non-profit organisations shall register for VAT as soon as the total income from delivery of goods (services) taxable pursuant to the Law, including using the local or global computer network, paid (given) to such a person or third persons as liable exceeds 300,000 hryvnias (excluding the value added tax) in the last twelve calendar months. The first problem likely to arise is the organisation's ceasing to be non-profit, and the second is not exceeding the 300,000 hryvnias' limit that requires the organisation to continually control regularity of paying for services within 12 calendar months. Because, if money is received irregularly or a lump sum is paid for a large scope of services, a CSO can lose the chance to deliver services for rather a long time, up to 11 months.

The capacity to carry out business activities independently belongs to general civil capacities of non-government legal persons including non-governmental non-profits. This capacity is secured by Recommendation CM/Rec(2007)14 (7) of the Council of Europe's Committee of Ministers to member states (adopted by the Committee of Ministers on 10 October 2007 at the 1006th meeting) on the legal status of non-governmental organisations (NGOs) in Europe: 'NGOs with legal personality should have the same capacities as are generally enjoyed by other legal persons and should be subject to the administrative, civil and criminal obligations and sanctions generally applicable to those legal persons'⁵⁹.

More specific provisions covering the capacity to engage in business activities are given in section 14 of the Recommendation: 'NGOs should be free to engage in any lawful economic, business or commercial activities in order to support their not-for-profit activities without any special authorisation being required, but subject to any licensing or regulatory requirements generally applicable to the activities concerned'.

Only seven of 27 EU member states currently tax incomes gained by community benefit organisations from business activities. Germany exempted even incomes from non-principal or non-statutory activities amounting up to EUR 35,000 per year, Hungary set the limit at EUR 41,000, Great Britain at EUR 60,000, and Lithuania even at EUR 300,000⁶⁰. Other countries, such as Czech

⁵⁷ Interaction between government bodies and civil society organisations / National Institute for Strategic Studies. – 2007. – [Available electronically from www.niss.gov.ua/Monitor/juli/23.htm].

⁵⁸ Interaction between government bodies and civil society organisations: Study / National Institute for Strategic Studies. – [Available electronically from <http://www.niss.gov.ua/Monitor/juli/23.htm>].

⁵⁹ Civil society in the EU-Ukraine Association Agreement [Available electronically from eu.prostir.ua/.../civil%20society%20in%20EU-Ukraine%20association%20agreement.pdf].

⁶⁰ Comparative charts of foundation laws (2009). – European Foundation Centre, 2010.

Republic and Slovakia, exempt incomes from charity cultural and educational events, social services, sports competitions, auctions and lotteries.

Can Ukrainian organisations engage in similar activities? After all, the recession significantly limits opportunities to receive private donations and other voluntary contributions⁶¹. However, Ukrainian NGOs have to rely on these very donations, since they receive little money from delivery of services or other business activities: less than 12% of the total income as compared with 47% in Hungary or 90% in Italy and 96% in Japan.

Even gaining income in the process of government procurement of goods and services including social ones requires clear guarantees of the capacity to engage in business activities, especially, for civil society organisations. Such guarantees are lacking, moreover, Ukrainian courts again and again would not allow organisations to engage in such activities or take out the necessary licenses in cases prescribed by law, even where law, for example, the Law covering social services⁶², expressly says that it is non-profit organisations that should deliver these services, rather than their enterprises. Issues relating to charity auctions and lotteries are also unsolved.

The main legislative regulation problem remains contradiction between provisions of articles 8 and 24 of the current Law of Ukraine 'On Citizens' Associations'. On the one hand, the law deals allows civil society organisations to conduct business not only through subsidiaries, but also directly. However, administrative and judicial practice strictly follows the limiting interpretation of the law and requires engagement in any activities having any potential to produce profit through participation in other enterprises.

Laws of most countries that became EU members by 2004 (Austria, Great Britain, Greece, Denmark, Ireland, Iceland, the Netherlands, Germany, Portugal, France and Sweden) do not impose any special restrictions on business activities of NGOs. Among the recent member countries, the general capacity to engage in such activities is recognised by laws of Estonia and Latvia⁶³.

As before, a justification for bureaucratic attention to business activities of NGOs is provided by article 24 of the Law of Ukraine 'On Citizens' Associations': civil society organisations are allowed to engage in 'business and other commercial activities by establishing self-governing institutions and organisations with legal personality, setting up enterprises in a manner prescribed by law'. The rest appears not to comply with the laws of Ukraine, which leads to numerous problems referred to above. Fiscal bodies mostly think business activities to include delivery of services free of charge.

Consequently, a stalemate ensues when NGOs can in no way avoid virtual violation of prohibition of business activities. Section 1.32 of the Law of Ukraine 'On Enterprise Profit Tax'⁶⁴ expressly states that business activities are 'any activities aimed at gaining income in the monetary, tangible or intangible form', and NGO's participation in developing such activities is regular, continual and essential, inter alia, in case these activities are carried out by representatives acting on behalf of the NGO. Section 1.31 of the same law is more specific and says that free-of-charge delivery of outcomes of works and services is also considered to be a sale, that is, earning of income, at any rate, in intangible form.

Contradictions can also be found in article 904 of the Civil Code of Ukraine allowing free-of-charge delivery of services to be contracted – not for advertising but for the clients to recover all associated costs to the provider of particular services, including NGOs, which is equivalent to earning money.

⁶¹ According to the Ministry of Economy of Ukraine, in the first half of 2009 profit of Ukrainian enterprises was 20.6 billion hryvnias as compared to 193 billion hryvnias in 2008. This means, in particular, that in 2010 enterprises could incorporate contributions to NGOs not exceeding 800 million hryvnias into their total costs. However, in 2008 such donations were around 2,600 million hryvnias.

⁶² Law of Ukraine 966-IV 'On Social Services' dated 19 June 2003 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=966-15>].

⁶³ Civil Society Journal. – 2010. – Issue 2(13). – p. 28. – [Available electronically from http://www.eternityclub.kiev.ua/pdf/gr_obshh_2.pdf].

⁶⁴ Law of Ukraine 334/94-VR 'On Enterprise Profit Tax' dated 28 December 1994 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=334%2F94-%E2%F0&p=1288600175262795>].

However, many lawyers firmly believe that provisions of the Constitution and other framework laws covering fundamental freedoms and rights become valid only when they are regulated by special laws or even by-laws.

But as conducting business, NGOs again and again ignore the fact that the above Law of Ukraine 'On Citizens' Associations' is framework rather than special and covers exchanges, housing co-operatives, political parties, foundations, and even trade unions and art groups.

Instead, special laws allow civil society organisations to directly engage in independent business activities. These are not only disabled people or Chernobyl victims' organisations. This capacity, in particular, is affirmed by laws 'On Co-Operation' (article 23)⁶⁵, 'On Professional Artists and Artistic Unions' (article 9)⁶⁶, 'On Employer Organisations' (article 11)⁶⁷, 'On Credit Unions' (article 21)⁶⁸, as well as 'On Charity and Charitable Organisations' (article 20)⁶⁹.

The list of special laws is being extended every year. Since May 2004, fees for services of arbitration courts not creating a legal person such as CSO, inter alia, within all-Ukraine civil society organisations, are exempt from profit tax. Such incomes are not considered to be from business activities.

Article 36 of the Constitution of Ukraine guarantees equality of all civil society organisations before the law. As per article 8 of the Constitution, its provisions apply directly, which was affirmed by the Constitutional Court that revoked discrimination provisions of laws 'On Youth and Children Organisations' and 'On Trade Unions, Their Rights and Guarantees'. If the special law allows civil society organisations of each type to have business activities, the direct applicability of article 36 of the Constitution will also mean unconstitutionality of general prohibition of business activities of such organisations.

Article 42 of the Constitution guarantees the right of each person to engage in entrepreneurship that is a special right in terms of business activities. This capacity of NGOs is specified in article 86 of the Civil Code: 'non-entrepreneurial societies and institutions, along with their principal activities, can engage in entrepreneurship, *unless otherwise stated by law* and provided that these activities meet and support the aim they were established with'.

Transitional provisions of the Constitution (section 1) say that laws and other regulations adopted before it came into force apply as far as this does not contravene the Constitution. The Civil Code of Ukraine and special NGO laws passed in 1997-2004 do not contravene the Constitution and Ukraine's international treaties, while the application of article 17 of the Law of Ukraine 'On Citizens' Associations' passed in 1992 contravenes them fundamentally⁷⁰.

Simultaneously with the Civil Code, the Economic Code of Ukraine⁷¹ distinguishes non-commercial business activities as independent and systematic business activities not aimed at making profit business entities, that is, any registered legal persons other than government bodies and local authorities (articles 52-55) engage in. Entrepreneurial activities of legal persons can be prohibited only in specific areas explicitly defined by law (article 43). It is important that article 167 of the Economic Code clearly distinguishes having corporate rights (including NGO subsidiaries) as a kind of business activities and entrepreneurship.

⁶⁵ Law of Ukraine 1087-IV 'On Co-Operation' dated 10 July 2003 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1087>].

⁶⁶ Law of Ukraine 554/97-VR 'On Professional Artists and Artistic Unions' dated 7 October 1997 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=554%2F97-%E2%F0>].

⁶⁷ Law of Ukraine 2436-III 'On Employer Organisations' dated 24 May 2001 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2436-14>].

⁶⁸ Law of Ukraine 2908-III 'On Credit Unions' dated 20 December 2001 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2908-14&p=1288600175262795>].

⁶⁹ Law of Ukraine 531/97-VR 'On Charity and Charitable Organisations' dated 16 September 1997 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=531%2F97-%E2%F0>].

⁷⁰ Vinnikov O. Memo on NGO's capacity to engage in independent business activities [Available electronically from <http://www.ucipr.org.ua/modules.php?op=modload&name=News&file=article&sid=4035&mode=thread&order=0&thoId=0>].

⁷¹ Economic Code of Ukraine 436-IV dated 16 January 2003 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=436-15&p=1288600175262795>].

2.4. Funding from other sources

Membership subscriptions

A large number of non-governmental organisations use membership subscriptions as a source of funding for their activities. At the same time, if we follow the logic of tax officers and laws, they should be taxable. This was the point of the State Tax Administration in its explanation 16884/10/15-109/244 dated 10 August 2009 to letter No. 0907 of the Centre of Civic Advocacy dated 8 July 2009⁷². Tax agencies are not currently concerned only with taxation of membership subscriptions of trade unions.

The Law of Ukraine 'On Enterprise Profit Tax'⁷³ providing the basis for exemption of respective incomes of non-profit organisations mentions membership subscriptions not in all of its sections. Respective parts of this law identify sources of income to be exempt from tax for non-profits of each type. Most charities and civil society organisations are among organisations listed by the Law 'On Enterprise Profit Tax', article 7, section 7.11.1, paragraph 'b', in particular: charitable foundations and organisations set up legally to provide charitable assistance, including by civil society organisations created in order to engage in environmental, recreation, amateur sports, cultural, educational and research activities, as well as art groups, disabled people civil society organisations and their local groups set up pursuant to the Law of Ukraine 'On Citizens' Associations'⁷⁴.

Correspondingly, the Law (article 7, section 7.11.3) identifies incomes of the said non-profit organisations to be exempt from tax that, to be more specific, are incomes earned in the form of:

- money or property supplied free of charge or as non-refundable financial assistance, or voluntary donations;
- passive incomes;
- money or property coming to such non-profits from their principal activities subject to provisions of subsection 7.11.11 of this article;
- grants or subsidies from the central or local budget, targeted government funds or as part of charitable activities, including humanitarian or technical assistance provided to such non-profits under international treaties that were given assent by the Verkhovna Rada of Ukraine, except for grants aimed at regulating prices for paid services delivered to such non-profits or through them to their recipients in line with law, in order to lower the prices.

As interpreted by the State Tax Administration, '...pursuant to the Law of Ukraine 'On Enterprise Profit Tax', article 7, section 7.11, subsections 7.11.6-7.11.7, exempt incomes of non-profit organisations are those gained in the form of membership subscriptions referred to in paragraphs 'e' (unions, associations and other groups of legal persons), 'f' (housing co-operatives, groups of co-owners of blocks of flats) and 'g' (legally established trade unions, their associations and organisations)'.

Today, therefore, fiscal bodies think that, if an organisation belongs to non-profits other than a union, association and group of legal (not natural) persons, housing co-operative, group of co-owners of blocks of flats, trade union, association, its membership subscriptions are taxable.

Furthermore, fiscal bodies believe that a non-profit gaining income from sources other than those identified by respective subsections 7.11.2-7.11.7 of this section should pay income tax identified as a sum of incomes earned from such other sources less a sum of costs associated with gaining such incomes, however, not exceeding the sum of such incomes.

⁷² Socio-legal portal. – [Available electronically from <http://www.pilga.in.ua/node/763>].

⁷³ Law of Ukraine 334/94-VR 'On Enterprise Profit Tax' dated 28 December 1994 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=334%2F94-%E2%F0&p=1288600175262795>].

⁷⁴ Law of Ukraine 2460-XII 'On Citizens' Associations' dated 16 June 1992 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2460-12>].

Organisations and lawyers attempted to place membership subscriptions among 'money and property coming to non-profits from their principal activities', however, as pointed out in the explanation, such a 'theory' is unsupportable. Presently, in order to avoid problems associated with possible charges of non-paying taxes liable on membership subscriptions and arguments with tax agencies, organisations not belonging to the types with exempt membership subscriptions may state such contributions as 'voluntary donations' of natural persons rather than membership subscriptions, which currently became a practice many NGOs actively engage in.

Such a type of sources of income is exempt for civil society organisations and charities belonging to those covered by the Law of Ukraine 'On Enterprise Profit Tax', article 7, section 7.11.1, paragraph 'b'.

Unions, associations and other groups of legal persons that are established to represent the interests of their founders, rely solely on contributions by such founders, and do not conduct any business, except for receiving passive income, can be included in the Register of Non-Profit Institutions and Organisations pursuant to the Law of Ukraine 'On Enterprise Profit Tax', article 7, section 7.11, subsection 7.11.1, paragraph 'e'.

This law (article 7, section 7.11, subsection 7.11.6) applies exemption from profit tax to incomes of such organisations earned in the form of one-off and periodic contributions from founders and members; passive incomes; grants and subsidies from the central or local budget, targeted government funds or as part of charitable activities, including humanitarian or technical assistance provided to such non-profits under international treaties that were given assent by the Verkhovna Rada of Ukraine, except for grants aimed at regulating prices for paid services delivered to such non-profits or through them to their recipients in line with law, in order to lower the prices.

The Law of Ukraine 'On Enterprise Profit Tax' (article 7, section 7.1, subsection 7.11.13) defines the term 'principal activities' as activities of non-profit organisations engaged in providing charitable assistance, delivery of awareness-building, cultural, research, educational and other similar services to the society, creation of citizens' social self service systems (non-government pension funds, credit unions and other similar organisations). Principal activities also include the non-profit's selling goods (services) promoting principles and ideas advocacy of which was the aim of creation of the non-profit, that are closely linked to its principal activities, provided that a price for such goods (services) is below the standard price or is regulated by the state.

Based on the above law, subject to article 7, section 7.11, subsection 7.11.9, paragraph two, and notwithstanding the provisions of paragraph one of this subsection, in case a non-profit organisation gains income from sources other than those identified by respective subsections 7.11.2-7.11.7 of this section, such a non-profit shall pay profit tax charged as a sum of incomes earned from such other sources less a sum of costs associated with gaining such incomes, however, not exceeding the sum of such incomes.

Therefore, in the context of the above law, selling goods received by the association as a membership subscription is equivalent to a business transaction aimed at making profit. Consequently, the income from selling such goods is subject to profit tax pursuant to section 11 of article 7, subsection 9, paragraph two, as income from sources other than those identified by respective subsection 7.11.1-7.11.7 of this section.

As regards value added tax liable on membership subscriptions, it should be noted that, pursuant to the Law of Ukraine 'On Value Added Tax'⁷⁵, article 3, section 3.1, value added tax is charged on supplies of goods and services by the taxpayers within the customs area of Ukraine. Membership subscriptions the non-profit receives from natural and legal persons that are its members in the form of money are non-taxable, value added tax is not charged since they are not paid for delivery of goods or services.

⁷⁵ Law of Ukraine 168/97-VR 'On Value Added Tax' dated 3 April 1997 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=168%2F97-%E2%F0&p=1288600175262795>].

Passive incomes

Pursuant to tax laws of Ukraine, exempt passive incomes of CSOs, i.e. those associated with the use of their property and service delivery outcomes by other persons, include interest, dividends, insurance payments and royalties.

Interest and credits

CSOs have limited access to funding in the form of money and goods on credit. In case of charities, law (Law of Ukraine 'On Charity and Charitable Organisations'⁷⁶) directly prohibits borrowing and pledging their property.

In case of civil society organisations, the main limitations are lack of assets to secure credits and a low financial stability. Sparse examples of borrowing by civil society organisations are mainly associated with purchasing real property and other fixed assets. It is this property that, along with guarantees of members of the civil society organisation's executive body, serves as a security for such credits.

On the other hand, the practice when CSOs sell their goods and services directly, especially, to receive interest in the form of goods on credit, is very rare in Ukraine so far. Only credit unions, pension funds and some other non-profit types are allowed by law to receive interest on money offered on credit.

Refundable financial assistance (loan) is an important source of funding of CSOs lacking circulating assets. Such organisations do not have any insurance funds or reserves, or undistributed profit to cover unexpected costs (penalties or costs associated with untimely transfer of grants, donations or budget subsidies).

Refundable financial assistance is regulated by the Civil Code of Ukraine⁷⁷ and tax law.

Endowment is not regulated by special law. In fact, the point is special terms and conditions of contracts for depositing money or securities with banks and other financial institutions, under which interest, in full or in part, is transferred to the account of a beneficiary named by the account holder.

Effective funding of CSOs from their own endowment requires large amounts of fixed capital not used for programmed and other day-to-day activities. Therefore, both foreign and local donors are unwilling to allow CSOs to transfer their charitable donations to long-term deposit accounts.

Examples of funding of Ukrainian CSOs from their own endowment include only few corporate charitable foundations. Nevertheless, creation of individual endowments to fund CSOs selected by a donating natural person is prevented by tax law and ineffective 'reliefs' described above.

Dividends

Incomes from corporate rights include dividends from CSOs' participation in business companies, private (subsidiary) companies and other enterprises owned by them, as well as carrying out joint activities.

Participation of CSOs in business companies in Ukraine was limited by the need to pay the minimum chartered capital. The total chartered capital of a limited liability company and joint-stock company was 100 and 1,250 minimum wages respectively. Presently, these amounts are much less. Since changes in law took place not very long ago, as a rule, today's CSOs have small share in companies' capital, and thus use-of-dividends policy of the companies and retaining their share in the event of increase in the companies' chartered capital are out of their control almost altogether.

On the other hand, legal forms of unlimited companies are uncommon in Ukraine. Nevertheless, the main (unlimited) members of these companies with chartered capital not regulated by law can be only registered business entities.

⁷⁶ Article 20 of Law of Ukraine 531/97-VR 'On Charity and Charitable Organisations' dated 16 September 1997 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=531%2F97-%E2%F0>].

⁷⁷ Articles 1046-1053 of Civil Code of Ukraine 435-IV dated 16 January 2003 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=435-15&p=1288600175262795>].

The most widespread type of incomes from corporate rights is dividends from private enterprises owned solely by CSOs. Taking into account virtually limited business activities of especially CSOs, these enterprises often engage in activities identical to statutory targets of CSOs. However, excepting enterprises of disabled people civil society organisations, such enterprises are not entitled to special tax reliefs or use of simplified taxation system.

Passive incomes also include dividends from joint activities paid as specially regulated by tax law. Furthermore, joint working agreements need to be registered with tax agencies. Owing to this, CSOs prefer mixed and not always transparent legal forms of joint working such as co-operation agreements, joint charitable and other programmes, as well as co-sharing.

Contributions to such activities, including rights to use premises or other property, often lack financial assessment, and thus it can not be adequately assessed how much they account for in funding of Ukrainian CSOs. However, given wide use of similar agreements, it can be estimated that dividends and passive incomes generally account in CSO funding for much more than it is suggested by official statistics.⁷⁸

Other passive incomes

There are only isolated cases of CSO funding in the form of insurance payments, because insurance companies are poorly developed in Ukraine so far. Instead, CSO funding from royalties, that is, paying for the use of their intellectual property (including marks, database and know-how) is mainly hampered, paradoxical as it may seem, by exemption of such transactions from value added tax. It does take VAT credit from business companies which is important to them.

Incomes from renting CSO property are excluded from passive incomes but they are passive incomes in their legal nature. CSOs can receive incomes, for example, from leasing within depreciation expense, without ceasing to be non-profit. Though incomes from renting property are difficult to estimate, because CSOs state not all of them and often receive them in exchange for other services or property, they are also an important source of CSO funding. A typical practice is, for example, when CSOs allow other persons to use their premises free of charge, provided that they pay for public services or repairs.

Furthermore, it is reduced rent on their property (especially, premises) that is the way in which local authorities support CSOs.

CSOs' activities that do not belong to principal activities or are not expressly stated in their statutory documents are considered to be unlawful. Nevertheless, laws of Ukraine only require such activities not to conflict with statutory targets of CSOs and legal requirements⁷⁹.

However, even if government bodies consistently adhere to such an interpretation, funding that comes from selling goods and services outside of principal activities of CSOs is considerably limited by the risk of not receiving the non-profit status or losing such a status on the ground of discrediting decisions of state tax agencies. As long as clear regulation of principal activities is lacking, delivery of practically all services by CSOs can be deemed to be their non-principal activities producing income taxable at the standard rate.

Laws of Ukraine consider accounting of incomes from non-principal activities and exempt incomes separately. Separate accounting is also used when incomes from principal and non-principal activities are earned using the same fixed assets.

2.5. Analysis of applicable laws of Ukraine on civil society organisations' participation in the consultation process and decision-making

As regards the state's use of the existing public consultation mechanisms, the latter continue to follow a top-down strategy, because they do not encompass specific proposals to the government

⁷⁸ Funding of civil society organisations (CSOs) in Ukraine: Analytical report, 2006 [Available electronically from <http://www.ucipr.org.ua/modules.php?op=modload&name=News&file=article&sid=5368&mode=thread&order=0&thoId=0>].

⁷⁹ Article 86 of Civil Code of Ukraine 435-IV dated 16 January 2003 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=435-15&p=1288600175262795>].

in any area of government policy, and thus are unable to produce a subject for the discussion; mechanisms to provide information on how the government is taking account of results of the discussion are not developed or outlined by law.

In contrast, civil society organisations perceive, for example, public councils to government bodies more often as a way of incorporation into the government structures with potential performance of particular government functions rather than a mechanism to influence it⁸⁰.

Civil society organisations in Ukraine do not influence the process of government decision-making in a perceptible way so far. Government bodies and CSOs lack sufficient experience and skills in applying public policy and consultation processes, which leads to ineffective decision-making and obscure policy.

Today, most citizens are unable to exercise their rights to participate in the issue-solving process at the local level too. Also, far from all interest groups are represented in professional organisations, which even more complicates the process of public consultations and taking care of interests of the public.

CSOs should become needed by the government, that is, develop and deliver goods and services good quality of which can not be ensured by the government. However, neither government bodies nor CSOs themselves make full use of even the existing legal mechanisms of public consultations. Means to ensure openness of local representative bodies are:

- public hearings;
- public forums (discussions initiated by local government to look at positions adopted by citizens on any issues on the local agenda, outcomes of which are not mandatory);
- submission of applications, proposals or complaints to local authorities;
- citizen initiatives (discussions initiated by citizens to look at solutions to problems the public is concerned with);
- appealing against decisions of local authorities to courts directly or through law and advocacy.

One of forms of co-operation of CSOs and citizens with government bodies is public councils.

Public councils are informal public structures working with government bodies and local authorities in fields and organisational formats chosen by them. In other words, public councils should be seen as groups involving representatives of the public that have a formalised internal structure, are delegated certain authority of (by a competent decision) and/or consulted by government bodies or local authorities on mapping out, adoption and execution of their own authority (decisions). Creation and activities of public councils are primarily based on article 38 of the Constitution giving citizens the right to participate in governance, and Decree 854/2004 of the President of Ukraine 'On Encouraging Wider Participation of the Public in Making and Implementation of Government Policy' dated 31 July 2004⁸¹.

These days, besides specialised public councils set up with particular government bodies or co-operating with them at the national level, the process of creation of public councils within communities (in the first place, oblast cities, because it is they that can exercise local authority really, not virtually) is becoming increasingly wider.

Public councils act as advisory bodies to government institutions in line with Resolutions of the Cabinet of Ministers of Ukraine 'Some Issues of Promoting Engagement of the Public in Making and Implementation of Government Policy' that does not apply any more, and 'On Additional Actions Aiming to Promote Engagement of the Public in Making and Implementation of

⁸⁰ Derzhalyuk O. The dynamics and expansion of the scope of activities of civil society organisations as a component of democratisation of Ukrainian society [Available electronically from <http://www.niss.gov.ua/Monitor/May08/03.htm>].

⁸¹ Decree 854/2004 of the President of Ukraine 'On Encouraging Wider Participation of the Public in Making and Implementation of Government Policy' dated 31 July 2004 [Available electronically from zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=854%2F2004].

Government Policy' currently in force⁸². Indeed, currently there are public councils to the Cabinet of Ministers of Ukraine, most ministries, state committees.

However, the governmental actions aimed at creating other mechanisms to engage the public in the process of decision-making by government bodies appear to lack activity and effectiveness. To be more specific, this is public consultations and acceptance of proposals of the public by the government, researches by public experts, participation of representatives of non-governmental organisations in work groups to central executive agencies that draft regulations and so on.

Such actions are mostly formal and fail to look into public opinion to be taken account of, because public consultation mechanisms: 1) do not encompass specific proposals to the government in any area of government policy, and thus are unable to produce a subject for the discussion; 2) are sometimes initiated to get information that would justify taking positions by representatives of the government; 3) fail to give equality to participants making known their positions and putting forth proposals in consultations and discussions. Furthermore, mechanisms to provide information on how the government is taking account of results of the discussion are not developed or outlined by law.

At the same time, activities of active public councils are lacking coverage. On websites of many central executive agencies, information related to creation of such bodies (not to mention their activities) either is absent or is restricted to a decree creating such bodies, the respective provision and a list of members. To some degree, this limits involvement of the interested public in activities of the bodies. Therefore, the development of interaction between political government and civil society institutions is considerably hampered by the fact that conceptual provisions in this respect stated by regulators are not put into practice so far.

On the other hand, civil society organisations perceive public councils more often as a way of incorporation into the government structures with potential performance of particular government functions or furthering narrow departmental and corporate interests rather than a mechanism to influence them.

Presently, many CSOs are trying to deliver services that previously were the responsibility of the state. They undertake to improve public awareness and enhance the government's responsibility for decision-making.

Local civil society organisations proved to be more successful than national ones, due to their accessibility and closeness to citizens⁸³. In the process of co-operation between NGOs and local authorities, the government gains increasingly more citizens' confidence. Identification of a citizen initiative through which citizens advocate their interests, as well as active involvement of local non-governmental organisations promote dialogue between citizens and government bodies. Such a dialogue is possible subject to monitoring quality of public services at the local level and building capacity of non-governmental organisations to engage citizens in the policy-making process. This capacity includes, in particular:

- conducting public hearings;
- setting up people's self-organisation bodies;
- undertaking surveys to measure quality of public services;
- research into government policy by sectors;
- provision of trainings;
- setting up consulting bodies where government officials work together with representatives of civil society organisations.

Of course, transition to democratic forms of governance through development and enhancement of influence of civil society is critical to Ukraine. This process will be facilitated by

⁸² Decree 1302 of the Cabinet of Ministers of Ukraine 'On Additional Action Aiming to Promote Engagement of the Public in Making and Implementation of Government Policy' dated 26 November 2009 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1302-2009-%EF>].

⁸³ Slavko T.O. The role of civil society organisations in development of civil society [Available electronically from www.nbu.gov.ua/Portal/Soc_Gum/Npchdu/Politology/2005.../31-7].

strengthening of non-governmental organisations and their increasingly closer co-operation with government bodies on all levels.

Law of Ukraine 'On Local Self-Government in Ukraine'⁸⁴ defines particular forms of participation of citizens in local governance and characteristics of their application:

- local referendums (article 7);
- general meetings of citizens (article 8);
- local initiatives (article 9);
- public hearings (article 13);
- people's self-organisation bodies (article 14).

We think that, from the point of view of consultations and decision-making, the most interesting forms are public hearings and people's self-organisation bodies.

Creation and activities of people's self-organisation bodies are regulated by the Law of Ukraine 'On People's Self-Organisation Bodies'⁸⁵. The main targets of these bodies are:

- to participate in socio-economic and cultural development of the respective area, implementation of other local programmes;
- to encourage inhabitants to participate in solving issues on the local agenda within the framework of the Constitution and laws of Ukraine;
- to meet social, cultural, everyday and other needs of people by promoting delivery of respective services to them.

In order to achieve these targets, local councils empower people's self-organisation bodies to:

- foster observance of the Constitution and laws of Ukraine, decrees of the President of Ukraine and executive agencies, decisions of local councils and their executive bodies, ordinances of heads of a village, small town, city, city district council (if any), decisions made by local referendums;
- represent, together with deputies, the interests of inhabitants of a house, street, neighbourhood, village, small town, city in the respective local council and its bodies, local executive agencies;
- assist deputies of respective local councils in organising their meetings with the electorate, meeting with citizens and other activities within constituencies;
- examine citizens' applications, meet with citizens;
- inform citizens about activities of the body, organise discussions of drafts of its decisions on the most important issues;
- duly put forth proposals as to draft local programmes covering socio-economic and cultural development of respective administrative units and draft local budgets;
- organise voluntary participation of people in activities in the area of environmental protection, improvement, greening and maintenance of cottages, courtyards, streets, squares, parks, cemeteries, common graves, equipment of play- and sports grounds, children's art studios, clubs, etc.; to this end, temporary or permanent teams can be set up, with possible use of other forms of people's engagement;
- organise voluntary participation of people in protection of historic and cultural sites, elimination of the aftermath of a natural disaster, construction and repairing of roads, footpaths, utility networks, public facilities in a manner and order prescribed by law for such works;
- monitor quality of public and home refurbishment services delivered to citizens living within the area covered by the self-organisation body;
- provide assistance to educational institutions, cultural, physical training and sports institutions and organisations in their people-targeted cultural, sports, recreation and educational activities, development of arts, physical culture and sports;
- foster preservation of cultural heritage, traditions of national culture, protection of historic and cultural sites, introduction of new rites into everyday life;

⁸⁴ Law of Ukraine 280/97-VR 'On Local Self-Government in Ukraine' dated 21 May 1997 [Available electronically from <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=280%2F97-%E2%F0&p=1288256627401397>].

⁸⁵ Law of Ukraine 2625-III 'On People's Self-Organisation Bodies' dated 11 July 2001 [Available electronically from <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2625-14>].

- organise provision of assistance to the elderly, people with disabilities, families of soldiers and partisans killed in the war, killed military men, poor families and families with many children, as well as sole citizens, orphans and children deprived of parental care, put forth respective proposals to local authorities;
- provide necessary assistance to fire protection agencies in fire prevention, organise fire safety training of people, participate in public monitoring of observance of fire safety requirements;
- assist law enforcement agencies in maintaining public order.

The community has the capacity to conduct public hearings – meet with deputies of the respective council and local officials to hear them, raise issues and make proposals in respect of issues on the local agenda. It is the definition provided by the Law of Ukraine 'On Local Self-Government in Ukraine'⁸⁶, article 13, part one.

The law also requires public hearings to be conducted at least once per year, and leaves the review of proposals based on results of hearings to local authorities. The law-maker also notes that the process of public hearings is regulated by statutes of communities, and therefore all procedures pertaining to public hearings should be clearly set out in the statute or a separate provision (appendix) that is an integral part thereof. This is important because it is much more difficult to amend a statute than a separate provision to be approved by the decision of the local council. Let us look closer at the main essential elements of the process of public hearings. Special organisational aspects of preparation and conduct of public hearings will be addressed farther on.

Based on provisions of the Law of Ukraine 'On Local Self-Government in Ukraine', a subject of hearings can be any issues on the local agenda. It is demand of the day to devote public hearings to problems of strengthening resources and development of communities, their property, housing, local budget, construction, etc. Based on most local regulations, initiators of public hearings are:

- community activist groups,
- people's self-organisation bodies,
- civil society organisations,
- heads of communities,
- deputies of local councils, etc.

Decisions based on results of public hearings are voted openly and reflected in a resolution that, together with the minutes, is delivered to local authorities for a review.

Analysis of current legislation of Ukraine in the area of CSO funding shows that its provisions mainly meet criteria established in the Fundamental Principles on the Status of Non-governmental Organisations in Europe. However, there is a very significant difference between the theory and practice of its application, that can be compensated for only by co-ordinated actions aiming at organisational development of both CSOs and the government service, and independent public monitoring of meeting CSO funding standards.

The Tax Code with proposals of the President of Ukraine⁸⁷ passed by the Verkhovna Rada of Ukraine improved the regulatory framework to some extent as far as CSO funding opportunities are concerned. Removal of a section concerning the simplified taxation system is also positive, because application of that section virtually did away with small and medium business in Ukraine that uses this simplified taxation system, and thus one of (mainly on the ground) sources of money for CSOs – the private sector. But in 2011, a heavy burden will be put on the business by the one-off social contribution, that will also negatively affect small and medium business capacities to provide support to CSOs on the ground.

Due to passing of the Tax Code and other laws and by-laws associated with the system of mandatory taxes and payments, CSO funding mechanisms need further research, especially, after their putting into practice.

⁸⁶ Law of Ukraine 280/97-VR 'On Local Self-Government in Ukraine' dated 21 May 1997 [Available electronically from <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=280%2F97-%E2%F0&p=1288256627401397>].

⁸⁷ [Available electronically from <http://www.sta.gov.ua/doccatalog/document?id=300427>].

2.6. Interim conclusions based on the analysis of applicable laws

Based on the results of the desk top research and conclusions of other researchers of these problems, such as M. Latsyba, O. Solontay, O. Derzhalyuk and others, we can provide interim conclusions that will serve as a basis for provision of recommendations as to improvement of the existing legislative framework of Ukraine in the area of CSO funding.

1. Inconsistency of provisions of articles 8 and 24 of the Law of Ukraine 'On Citizens' Associations' currently in force allowing civil society organisations to engage in business activities not only through subsidiaries but also directly needs to be dealt with.
2. In order to eliminate some restrictions put on CSO funding by unfavourable regulatory policy, it is needed to extend actions in the area of deregulation of business activities in Ukraine to main risks associated with CSO funding, especially: requirements for amendments to statutory documents of CSOs not set forth by law; requirements for special government authorisations (licenses, special registrations, agreements, etc.), unless expressly stated by law; administrative restrictions of CSOs' capacity to use and dispose of their property and property rights in some cases; restriction of CSOs' access to financial services and imposition of administrative financial sanctions for minor or not duly proven breaches.
3. In order to minimise the influence of the unstable system of taxation of non-refundable assistance provided to CSOs on the status of funding, attention can be focused on the need for creating an alternative tax base for non-refundable assistance provided by donors with legal personality at 0.2-0.3% of their total income as payers of enterprise profit tax or their wages and remuneration costs; remove the link between entitlement of natural persons to tax credit on contributions and non-refundable assistance provided to CSOs to wages received by such donors.
4. In order to solve the problem resulting from exercise of some discriminating powers of executive agencies, the following needs to be undertaken: setting forth the main provisions on CSO funding and administration of taxes in respective laws and resolutions of the Cabinet of Ministers of Ukraine; establishment of clear and generally understandable criteria to assess compliance of principle activities of CSOs with non-profit status; providing all the ministries with common tendering techniques based on priorities approved by the minister, while avoiding duplication of departmental functions.
5. In order to solve the problem resulting from restricted access of CSOs to long-term funding, the following needs to be undertaken: amending tax laws so as to promote long-term state funding of CSOs, for example, through special government funds; establishment of a special legal status of endowments of private donors of CSOs.
6. The problem resulting from discrimination of particular CSO types on the basis of their status or other characteristics can be solved by exempting one-off and periodic contributions from founders and members of CSOs referred to in the Law of Ukraine 'On Enterprise Profit Tax', section 7.11.1, paragraphs 'b', 'c' and 'd', from enterprise profit tax and VAT; exempting non-refundable assistance provided to CSOs referred to in the Law of Ukraine 'On Enterprise Profit Tax', section 7.11.1, paragraphs 'c' and 'd', from income tax, on the grounds of constitutional guarantees of equality of civil society organisations before the law; cancelling division of CSOs on the basis of territorial status as an obstacle to access to budget funding and earning incomes from principal activities.
7. The existing problem that results from competition between budget-funded institutions and CSOs for non-refundable financial assistance from private donors can be solved by setting a special quota for non-refundable assistance provided to budget-funded institutions and CSOs in the Law of Ukraine 'On Enterprise Profit Tax' (section 5.2.2) and the Law of Ukraine 'On Personal Income Tax' (section 5.3); exempting targeted assistance in the form of social

- services supplied in line with government standards and provisions from personal tax for beneficiaries of this assistance coming from both budget-funded institutions and CSOs.
8. Informing the public on social services delivered by CSOs shall be deemed social advertising.
 9. The Law of Ukraine 'On Value Added Tax' is to be amended where it fixes the worth of delivery of goods or services, by replacing the sentence 'within 12 calendar months' with 'within calendar year'.
 10. The Law of Ukraine 'On Enterprise Profit Tax' should be amended by expressly stating that membership subscriptions of CSOs of all types are non-taxable.

3. Analysis of the existing practices of funding of civil society organisations in Ukraine

Before starting the field research of the existing experience in the area of funding of civil society organisations by government bodies, local authorities and the private sector, we identified expert assessment units as a primary element of the research topic, that possess a set of characteristics limiting selection of respondents involved in the research. As key characteristics of an expert assessment unit, we selected the respondents' belonging to respective government, self-governing, private organisations and CSOs, as well as their having experience in CSO funding by government bodies and local authorities, the private sector and natural persons.

In order to obtain data reflecting all the existing experience in the area of CSO funding by government bodies, local authorities and the private sector, groups of assessment units were identified – civil society organisations as a recipient of funding; government bodies, local authorities and the private sector as financial donors.

As the territorial unit used in the research, 5 representative regions of Ukraine were selected on the basis of the cross-geographic characteristic, level of economic development and structure of economic sectors, where we selected oblasts equally represented in the research: 1. Eastern (Donetsk oblast); 2. Western (Volyn oblast); 3. Southern (Odesa oblast); 4. Northern (Kyiv oblast); 5. Central (Poltava oblast and Kyiv). As selecting respondent groups, it was taken into account that not less than 20% of respondents work in the rural area. Rural surveys were undertaken with representatives of target groups of respondents evenly distributed across all expert assessment units: government bodies, local authorities, private sector, CSOs.

Even distribution of respondents on the basis of the cross-geographic characteristic allows us to evenly focus on the research of existing funding practices in place in different regions of Ukraine and conduct comparative analysis of effectiveness of particular forms and mechanisms of CSO funding taking into account differentiation of economic development of oblasts and structure of economic sectors.

Given the above, the field research was conducted by the method of a structured expert interview with 300 suitable respondents in 5 representative regions of Ukraine and Kyiv, visiting organisations and a face-to-face contact with the respondents.

The field research tool is a questionnaire that is divided into five respective blocks of information and has in total seven parts two of which relate to procedural aspects of the survey (see Appendix 2.):

1. Interviewer's instruction.
2. Block I containing questions about who the respondent is: civil society development expert, representative of a government body, business/private sector, local authority, manager or member of a CSO. The respondent representing the CSO is asked about the status and the structure of funding received by the organisation.
3. Block II containing questions regarding problems of CSO funding by government bodies.
4. Block III containing questions regarding problems of CSO funding by local authorities.
5. Block IV containing questions regarding non-government CSO funding.

6. Block V of proposals as to improvement of CSO funding.
7. Questions to the interviewer.

Data obtained in the process of the field research were processed using SPSS. They allowed us to see into existing Ukraine's practices in the area of funding of civil society organisations by government bodies, local authorities and the private sector.

3.1. Characteristics of the interviewed respondents

In the process of the research, 300 respondents from 5 representative regions of Ukraine were interviewed, in particular:

- 71 respondents (23.3%) representing government bodies;
- 72 respondents (24.0%) representing business/private sector;
- 74 respondents (24.7%) representing local authorities;
- 84 respondents (28.0%) that were managers or members of CSOs.

Besides 223 respondents (74.3%) living in urban areas, 77 respondents (25.7%) living and working in rural areas were interviewed.

The research included 84 respondents representing CSOs that were distributed as follows: 26.2% were from charities; 19% were from professional associations; 54.8% were from other CSOs (youth, women's, disabled people, veterans organisations, people's self-organisation bodies, etc.).

Most CSO representatives were from organisations having over 50 members (47.6%), 20-50 members (32.1%), 1-10 members (20.2%). On the basis of their status, surveyed CSOs were distributed as follows: most of respondents (71.4%) were from local organisations, 19% were from all-Ukraine, and 4.8% were from international organisations. Surprisingly, 4.8% of respondents representing CSOs could not identify their status.

Survey was to address the issue of CSO budget 2009. Ranking of the participants showed that most of them (39.3%) were from organisations whose 2009 budget did not exceed 10,000 hryvnias; 23.8% of respondents represented organisations whose budget exceeded 200,000 hryvnias; 15.5% said that the budget of their organisation was from 10,000 to 50,000 hryvnias; 10.7% represented organisations whose budget was from 50,000 to 100,000 hryvnias. Very few (2.4%) represented organisations with a budget from 100,000 to 200,000 hryvnias.

These data showed a significant difference between budgets of civil society organisations within the sample. Only few, so to speak, 'heavy-budget' organisations can compete with the others whose budget does not exceed 10-15 living wages. This can be explained by subjective (unprofessionality of CSOs, their 'newness' and organisational development) and objective factors linked to the existing civil society development policy.

On the basis of their sources of funding (government funding, business, community money, international funds, domestic charitable foundations, membership subscriptions), civil organisations were distributed, in general, evenly (from 1.2% to 4.8%), however, most surveyed organisations relied solely on membership subscriptions (20.2%), assistance provided by the business (8.3%), international foundations (7.1%).

3.2. Problems of funding by government bodies and local authorities

3.2.1. MAIN PROBLEMS OF THE EXISTING GOVERNMENT FUNDING SYSTEM AND THEIR IMPORTANCE FOR IMPROVEMENT

Respondents assessed the main problems of the current CSO government funding system formalised in the questionnaire and their importance for development of CSOs using a scale, 'very important'-'important'-'unimportant'-'hard to answer'. Besides problems outlined in the questionnaire, respondents were asked to name other problems with government funding of CSOs

and assess their importance. In this way, the widest coverage of the research topic was achieved.

The general results of distribution of the respondents on the basis of their answers to the posed questions are presented in fig. 3.1. Fig. 3.1 shows that the biggest problem of state funding of civil society organisations is thought by the respondents to be scant government funding. 57 per cent of the respondents consider this problem to be very important, 28.3% assess it as important, and only 0.7% think that this problem is unimportant. If we rank state funding problems by the number of respondents that assessed them as 'very important', the problem put by us as the 'Lack of programmes to tender for project funding' is ranked second, and the 'Legislative uncertainty of aims and criteria of CSO state funding, government's lacking respective techniques to select competing programmes' is ranked third. Respectively, only 1.7% and 1% of the respondents consider these problems to be 'unimportant'.

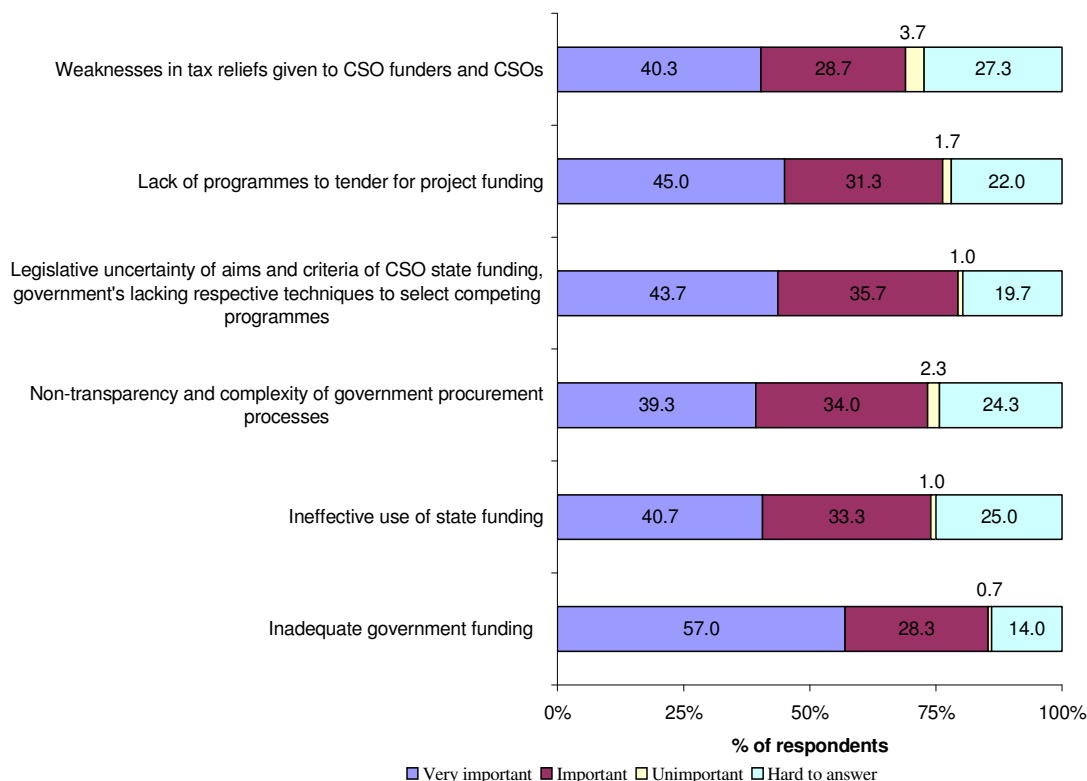


Fig. 3.1. Distribution of the respondents on the basis of their answers to the question: '*PLEASE ASSESS THE MAIN PROBLEMS OF THE EXISTING CSO GOVERNMENT FUNDING SYSTEM AND THEIR IMPORTANCE FOR DEVELOPMENT OF CSOs*', % OF RESPONDENTS, N (number of respondents)=300

It should be noted that all the answers to questions about CSO state funding problems formalised by us in the questionnaire were supported by most respondents (that assessed the problems as 'very important' or 'important'). Each problem was assessed as 'unimportant' by less than 4%.

In general, the survey showed that the respondents are highly aware of CSO state funding problems. Naturally, some groups of respondents that had not encountered CSO government funding problems face to face answered some questions of the questionnaire with 'hard to answer'. Most 'hard to answer' answers were received to questions about importance of the following problems:

- 'weaknesses in tax reliefs given to CSO funders and CSOs' – 27.3%;
- 'ineffective use of state funding' – 25%;
- 'non-transparency and complexity of government procurement processes' – 24.3%.

Hence, the next step in the analysis of research results was to look into attitudes towards CSO state funding problems held by groups of respondents that are aware of these problems the best and personify subjects and objects of the process – those representing government bodies, on the one hand, and managers or members of CSOs, on the other. Comparison of their answers to questions about importance of the main CSO state funding problems will make it possible to find out whether there is a consensus on the vision of CSO state funding problems between the subject and the object of funding. If such a consensus exists, this provides the basis for effective dialogue between the public and the state aimed at solving such problems.

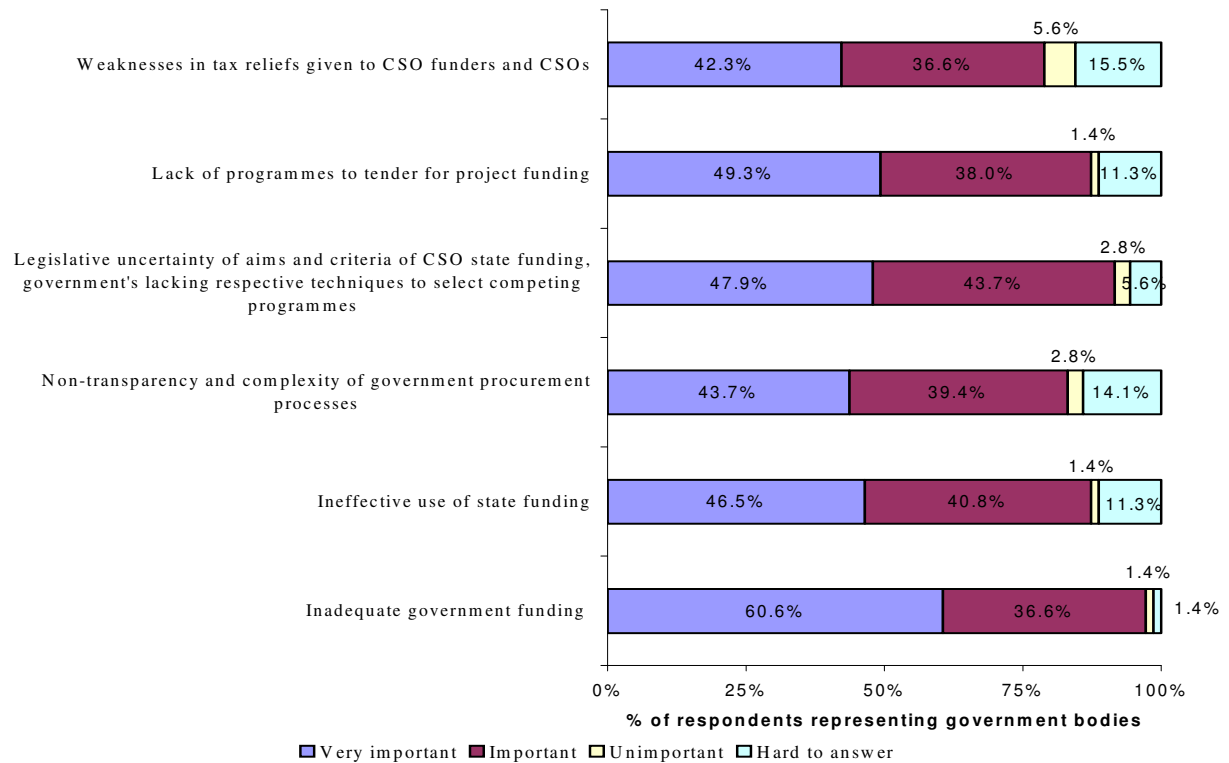
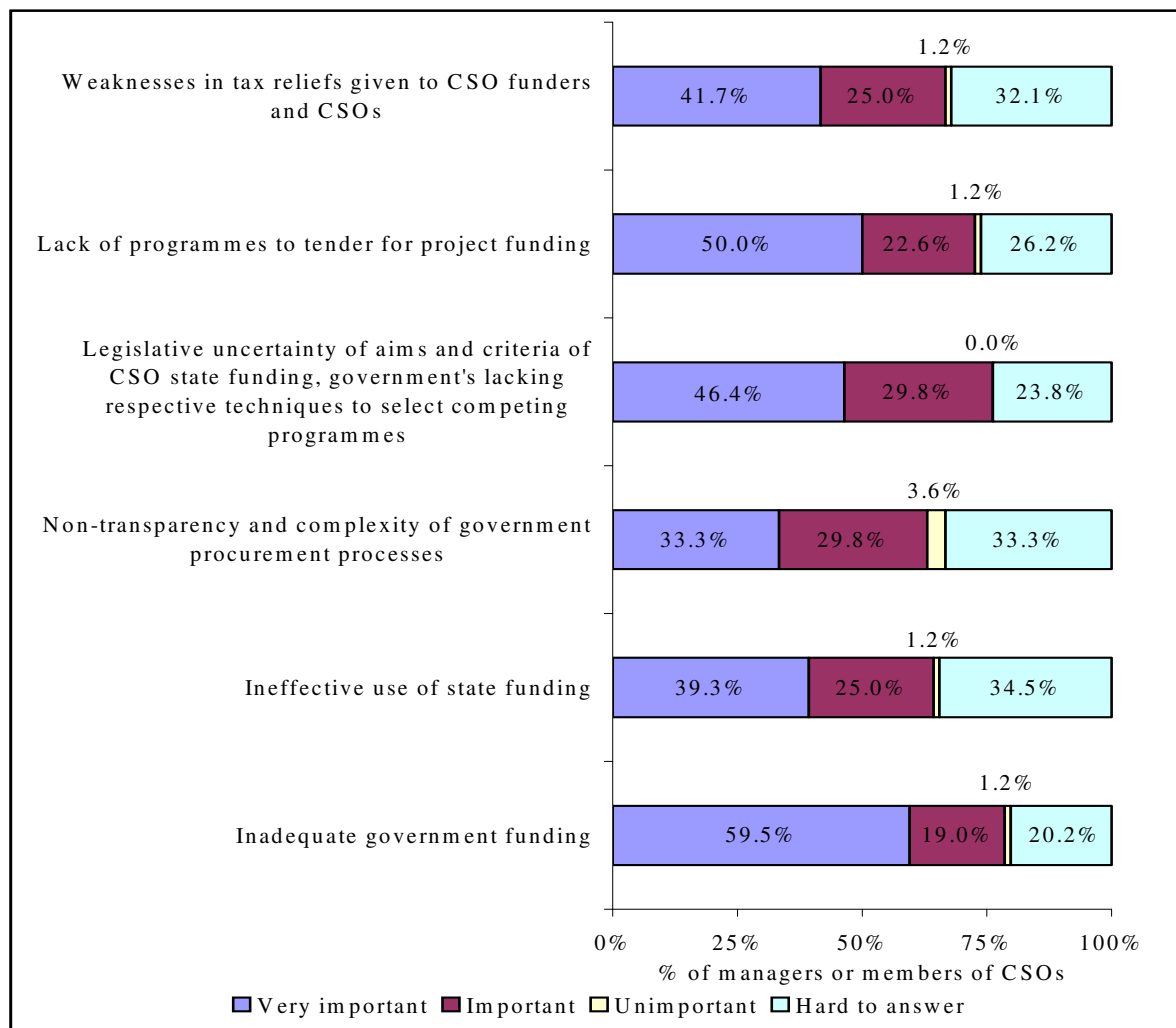


Fig. 3.2. Distribution of the respondents representing government bodies on the basis of their answers to the question: 'PLEASE ASSESS THE MAIN PROBLEMS OF THE EXISTING CSO GOVERNMENT FUNDING SYSTEM AND THEIR IMPORTANCE FOR DEVELOPMENT OF CSOs', % OF RESPONDENTS REPRESENTING GOVERNMENT BODIES, N=71

Fig. 3.2. shows distribution of respondents representing government bodies on the basis of answers to the question: 'Please assess the main problems of the existing CSO government funding system and their importance for development of CSOs'. The number of members of the respective reference group is 71.

Our hypothesis that the government reference group should include a minority of those that answered 'hard to answer' to the question about importance of CSO state funding problems proved to be true. Less than 15% of the respondents were uncertain in answering this block of questions. Just as it was across the sample, government officials saw the most important problem in 'inadequate government funding' that was assessed by 60.6% as 'very important', and by 36.6% as 'important'. If we rank state funding problems by the number of government officials that assessed them as 'very important', the problem put by us as the 'Lack of programmes to tender for project funding' is ranked second, and the 'Legislative uncertainty of aims and criteria of CSO state funding, government's lacking respective techniques to select competing programmes' is ranked third. Respectively, only 1.4% and 2.8% of the government officials consider these problems to be



'unimportant'. Hence, the officials identified the same triplet of the most urgent CSO state funding problems as all the respondents within the sample.

Fig. 3.3. Distribution of the managers or members of CSOs on the basis of their answers to the question: 'PLEASE ASSESS THE MAIN PROBLEMS OF THE EXISTING CSO GOVERNMENT FUNDING SYSTEM AND THEIR IMPORTANCE FOR DEVELOPMENT OF CSOS', % OF MANAGERS OR MEMBERS OF CSOs, N=84

It is characteristic that 87.3% of the respondents representing government bodies believe that CSO funding is spent ineffectively, and 83.1% think government procurement processes to be complex and non-transparent.

Let us compare answers of government officials with answers of managers or members of CSOs shown in fig. 3.3. The number of members of the respective reference group is 84.

Managers or members of CSOs proved to be less aware of government funding problems. For example, 34.5% of the respondents of this group answered 'hard to answer' to the problem of 'ineffective use of budget funding', and 33.3% of CSO members answered the same to the problem of 'non-transparency and complexity of government procurement processes'.

This suggests a very interesting conclusion that, perhaps, information on winners of government procurement tenders and outcomes of projects or delivery of procurement services is simply unknown to a wide group of stakeholders.

It should be noted that so big uncertainty primarily applies to problems with distribution and use of budget funding, that is, stages of the budget funding process strange to most civil society organisations. Those that were uncertain in answering the rest of the problems set out in the questionnaire accounted for not more than one-third.

What follows is the results of ranking of government funding problems based on the criterion of a percentage of CSO members considering a problem to be 'very important'.

The top-ranked problem is 'inadequate government funding' (59.5% of the respondents think it to be very important), the problem of 'lack of programmes to tender for project funding' was ranked second, and that of 'legislative uncertainty of aims and criteria of CSO state funding, government's lacking respective techniques to select competing programmes' was ranked third.

Conclusion. Therefore, the analysis of research results shows that reference groups of government officials and CSO members are unanimous in selection of the most important CSO state funding problems. They selected the following three problems (ranked in order of importance):

- 1) inadequate government funding;
- 2) lack of programmes to tender for project funding;
- 3) legislative uncertainty of aims and criteria of CSO state funding, government's lacking respective techniques to select competing programmes.

Given unanimity of views of subjects and objects of the funding process, one might expect a constructive dialogue between the government and civil society aimed at solving CSO state funding problems.

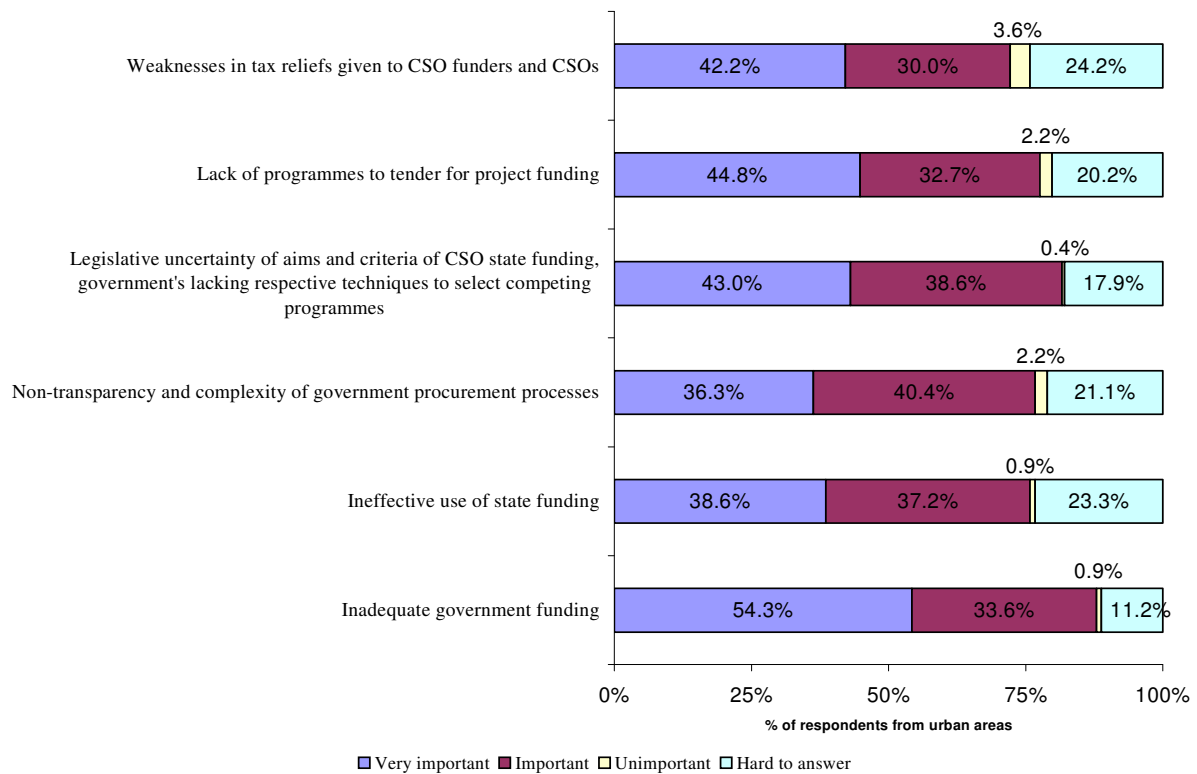


Fig. 3.4. Distribution of respondents living in urban areas on the basis of their answers to the question: *'PLEASE ASSESS THE MAIN PROBLEMS OF THE EXISTING CSO GOVERNMENT FUNDING SYSTEM AND THEIR IMPORTANCE FOR DEVELOPMENT OF CSOS'*, % OF RESPONDENTS LIVING IN URBAN AREAS, N=223

A distinctive feature of our research is in-depth study of views of respondents living in rural areas. Figures 3.4 and 3.5 show answers of respondents from urban (223 respondents within the sample) and rural areas (77 respondents) to the set of questions of the questionnaire regarding CSO state funding problems.

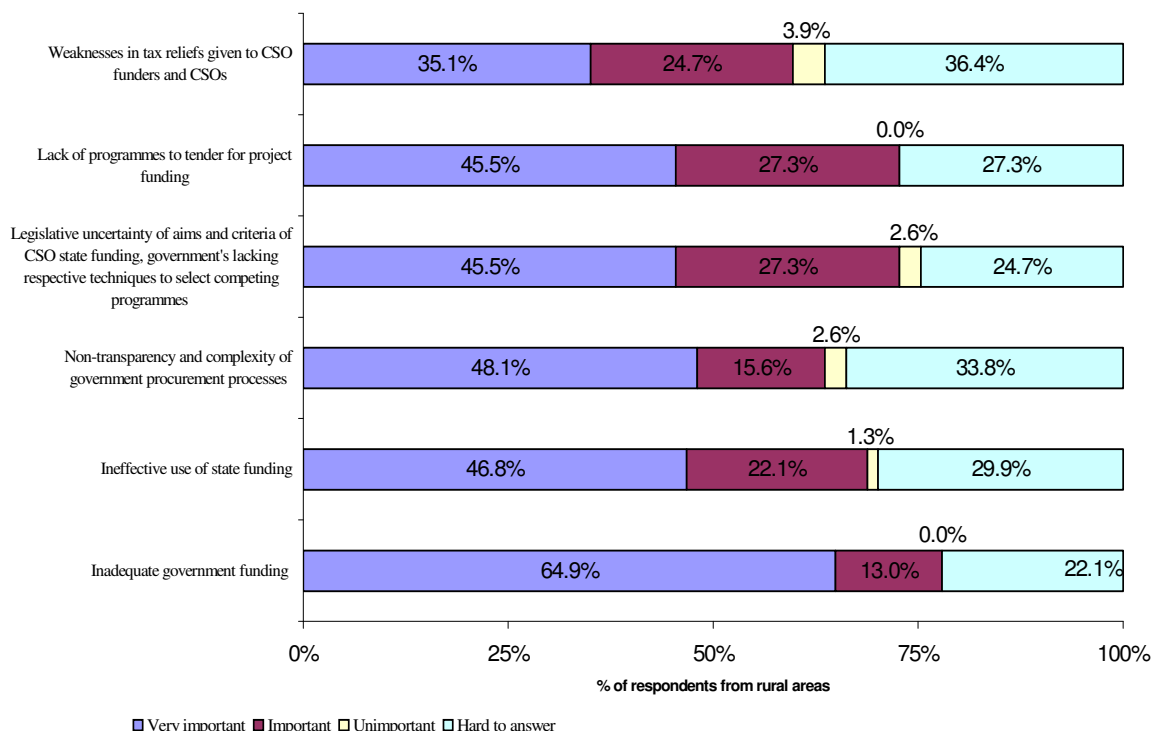


Fig. 3.5. Distribution of respondents from rural areas on the basis of their answers to the question: 'PLEASE ASSESS THE MAIN PROBLEMS OF THE EXISTING CSO GOVERNMENT FUNDING SYSTEM AND THEIR IMPORTANCE FOR DEVELOPMENT OF CSOs', % OF RESPONDENTS LIVING IN RURAL AREAS, N=77

Comparison of data from figures 3.4 and 3.5 shows:

- **much more percentage of the respondents from rural areas that are uncertain in their assessment of CSO state funding problems. In particular, 36.4% of the respondents from rural areas could not assess the problem resulting from weaknesses in the system of tax reliefs given to CSO funders and CSOs, and 33.8% of the same respondents could not assess the government procurement problem. At the same time, respondents from urban areas that were uncertain in their assessment of government funding problems accounted for only one-fourth.**
- In general, assessments of government funding problems by the respondents from urban and rural areas are close – the both reference groups ranked first, second and third:
 - 1) **inadequate government funding;**
 - 2) **lack of programmes to tender for project funding;**
 - 3) **legislative uncertainty of aims and criteria of CSO state funding, government's lacking respective techniques to select competing programmes.**

Besides formalised CSO state funding problems, the respondents were asked an open question regarding other government funding problems they would face.

The problems identified by the respondents are listed below:

- half-hearted attempts of CSOs at receiving government funding: *'too little knocking'* as one of the respondents put it figuratively;
- lack of the government funding information system. One of the respondents said: *'Despite the existence of the practice and some announcements about getting funding from local budgets for specific aims and programmes at the regional level, this system is*

not in place at the national level so far. Some civil society organisations receive money in a non-transparent way;

- weaknesses in the government funding process. One of the respondents put it as follows: *'Even the existing government programmes are funded not always in full. Furthermore, money is provided at the end of the year, when it can not be spent effectively, as a rule. The organisation first spends its money, and then the state does not recompense it because the budget is changed'*. Another respondent added: *'It is impossible to carry unspent money to the next budget year'*;
- besides the problem of non-transparency and complexity of government procurement processes formalised in the questionnaire, the respondents pointed out that there is a problem of complexity of reporting on the use of budget funding;
- according to some respondents representing government bodies, the problem is the *'CSOs' low prestige among government bodies'*. On the other hand, the interviewed members of civil society organisations speak about *'nonrecognition of CSOs by government bodies', 'CSOs' neglect by the state'*;
- *'lack of a legislative provision requiring planning of (oblast, rayon, village) budget spending on CSOs' projects or events'*;
- in addition, the respondents point out that *'the tradition of CSO funding by the state does not exist'*.

Conclusion: The respondents supplemented the list of CSO state funding problems with half-hearted attempts of CSOs at receiving government funding; *lack of tradition of CSO funding by the state*; complexity of reporting on the use of budget funding; *CSOs' low prestige among government bodies*; lack of the system to provide information on government funding; weaknesses in the government funding process, especially, uneven funding over the year; lack of legislative provisions requiring planning of (oblast, rayon, village) budget spending on CSOs' projects or events.

3.2.2. RESPONDENTS' PERCEPTION OF THE GOVERNMENT FUNDING MODEL

The respondents were offered both formalised and non-formalised (open) questions about elements of the CSO state funding model.

Formalised questions prompted to assess the following elements of the model:

- setting up the National Civil Society Development Foundation, predominantly competitive funding of CSO activities;
- possible participation of CSOs of all types in project tenders;
- possible funding to cover administrative costs;
- simplified processes of government procurement of services and works for CSOs.

Fig. 3.6. shows the distribution of the respondents' answers to the set of questions regarding the CSO state funding model. Most respondents supported the main elements of the proposed CSO state funding model. Around 11% of the respondents did not answer the posed questions, 7% to 16% of the respondents answered 'hard to answer'. The elements that received the biggest support were 'possible participation of CSOs of all types in project tenders' (78.7% of the respondents) and 'simplified processes of government procurement of services and works for CSOs' (74%).

Possible funding to cover administrative costs was supported by 69% of the respondents; introduction of predominantly competitive CSO funding was supported by 62.7% and negated by 15.7% of the respondents.

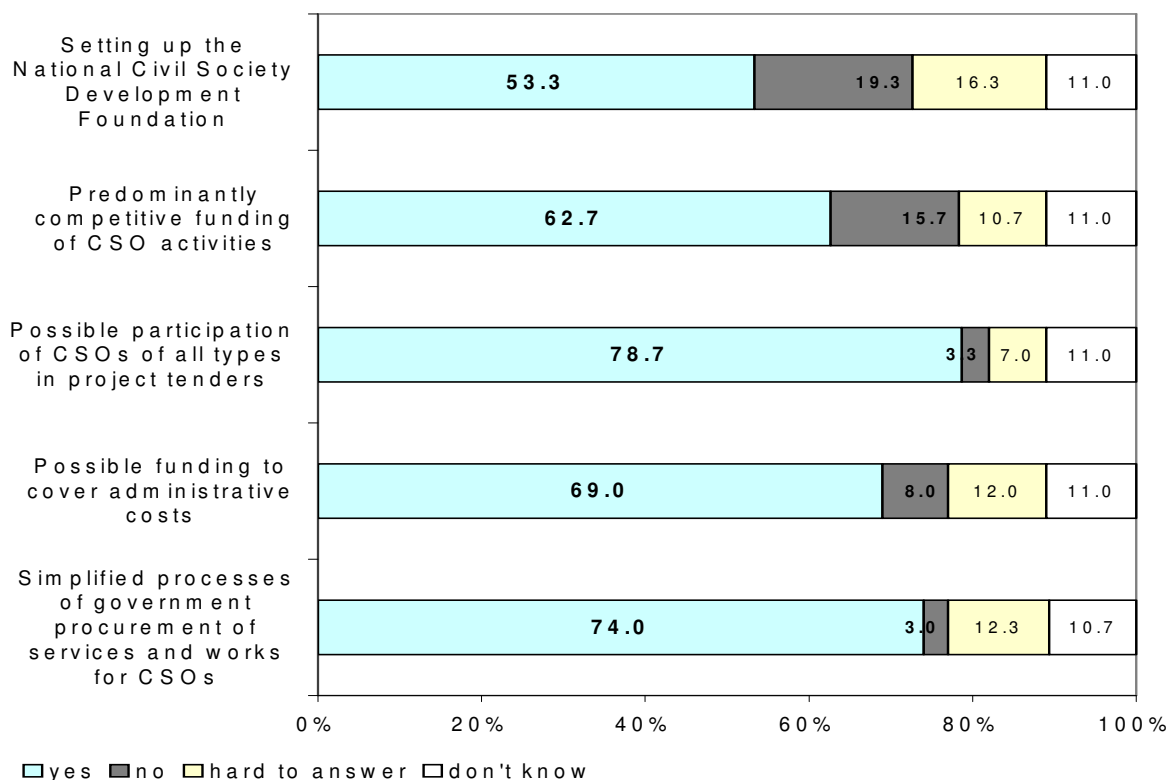


Fig. 3.6. Distribution of the respondents' answers to the question regarding the CSO state funding model, % of respondents (N=300)

Conclusion. Attitude towards setting up the National Civil Society Development Foundation proved to be the most ambiguous. It was supported only by 53.3% and negated by 15.7% of the respondents.

Since many experts consider the National Civil Society Development Foundation to be the central element of the CSO funding model, we will analyse support of this idea by the main reference groups within the sample in detail.

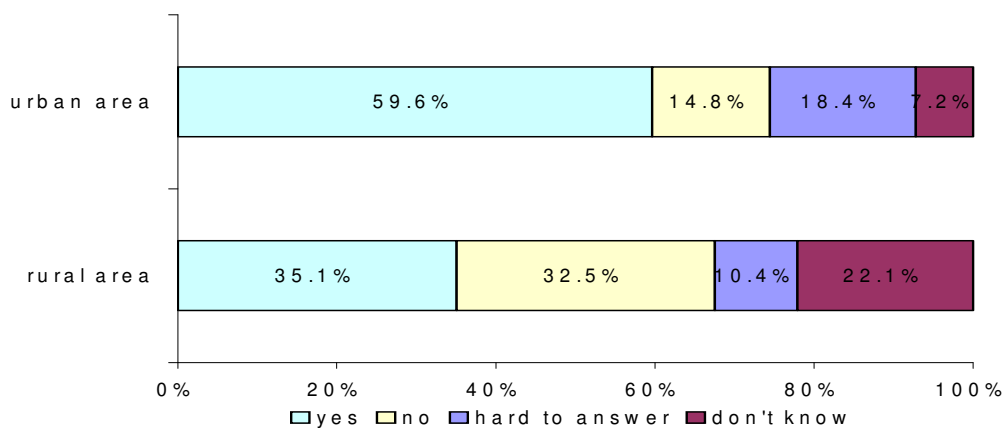


Fig. 3.6. Attitudes the respondents from urban (N=223) and rural areas (N=77) have towards setting up the National Civil Society Development Foundation, % of respondents.

Fig. 3.6. shows the results of interviewing the respondents from urban and rural areas on setting up the National Civil Society Development Foundation.

Conclusion. The results show differences in attitudes the respondents from urban and rural areas have towards setting up the foundation. Whilst over one half (59.6%) of the

respondents from urban areas support the CSO funding model based on the National Civil Society Development Foundation, in ruralities setting up the foundation is thought to be expedient by only 35.1% and negated by 32.5% of the respondents. Almost one-fourth (22.1%) of the respondents from rural areas did not answer the question about expediency of setting up the foundation at all. Such an attitude is likely to be explained by the respondents' view that funding from centralised sources is inaccessible to rural CSOs.

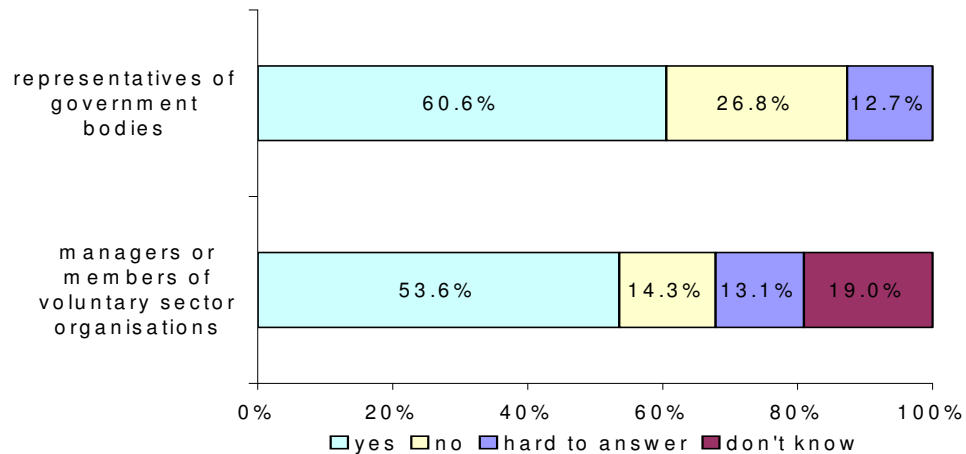


Fig. 3.7. Attitudes representatives of government bodies (N=71) and managers and members of CSOs (N=84) have towards setting up the National Civil Society Development Foundation, % of respondents

It would be logical to assume the existence of a difference between views of setting up the foundation in the reference groups of government officials and CSO members. Fig. 3.7. shows the results of interviewing representatives of government bodies (N=71) and managers and members of CSOs (N=84) on setting up the National Civil Society Development Foundation.

Conclusion. Setting up the foundation is supported by 60.6% of representatives of government bodies that is more than across the sample (53.3%). However, 26.8% of the respondents of this group negated creation of the Foundation that is noticeably more than across the sample (19.3%). Therefore, polarisation of views of setting up the National Civil Society Development Foundation between representatives of government bodies is greater than across the sample. Furthermore, there are no respondents from among government officials that would not answer the question.

Distribution of views of respondents from among managers and members of CSOs is close to distribution of views of all the respondents across the sample: 53.6% support the model based on the National Civil Society Development Foundation, 14.3% negate it, 13.1% answered 'hard to answer', and 19% did not answer at all.

The respondents were also asked open questions regarding the CSO funding model. In their answers, many respondents emphasise the need for '*creation of regional divisions of the National Foundation*'. The respondents believed that '*funding of CSO activities must be stipulated by law and provided for in the budget*'.

The respondents also emphasise the need for '*creation of a system to provide information on opportunities of CSOs' participation in tenders*' as a component of the CSO state funding model. In particular, it is proposed '*to create a newsletter*' to provide information on government procurement for CSOs, winners of tenders and outcomes of projects or services. Noteworthy is the proposal of a few respondents that the model should allow for '*complementary funding of projects funded by international foundations*' and '*capital investments using budget money*'. One of the respondents combines the two initiatives and proposes '*budget co-funding of construction projects subject to the approval of complementary funding of a CSO's project by international financial organisations*'.

The respondents emphasise that the government funding model should be based on '*clearly identified long-term directions (priorities) of funding*', '*civil society development programmes and development priorities*'. And one respondent proposes '*testing the CSO development programme implementation pilot in one region, after which the development of the nation-wide programme should only follow*'.

3.2.3. MAIN PROBLEMS OF THE EXISTING LOCAL GOVERNMENT FUNDING SYSTEM

The respondents assessed the main problems of the existing CSO local government funding system offered in the questionnaire and looked into their importance for development of CSOs using a scale, 'very important'-'important'-'unimportant'-'hard to answer'. Besides problems outlined in the questionnaire, the respondents were asked to name other problems with local government funding of CSOs and assess their importance. In this way, the widest coverage of the research topic was achieved.

The general results of distribution of the respondents on the basis of their answers to the posed questions are presented in fig. 3.8.

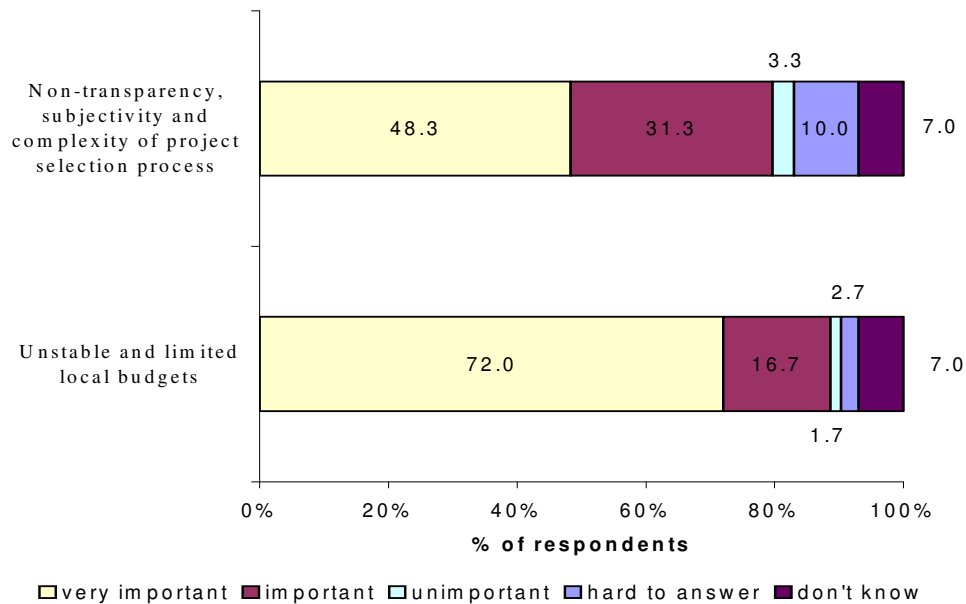


Fig. 3.8. Distribution of the respondents on the basis of their answers to the question: '*PLEASE ASSESS THE MAIN PROBLEMS OF THE EXISTING CSO LOCAL GOVERNMENT FUNDING SYSTEM*', % OF RESPONDENTS, N=300

Fig. 3.8 shows that the biggest problem of funding of civil society organisations by local authorities is thought by the respondents to be unstable and limited local budgets. 72 per cent of all regions that had participated in the field research pointed out that unstable and limited local budgets are a very important problem, 16.7% saw it as important for the existing CSO funding system, and only 1.7% thought it to be unimportant.

The next step in the analysis of research results was to look into attitudes towards CSO local government funding problems held by groups of respondents that know these problems the best – those representing local authorities and managers or members of CSOs. Comparison of their answers to questions about importance of CSO local government funding problems will make it possible to find out whether there are differences in views of this issue between the subject and the object of funding. It is characteristic that vast majority of the respondents – 99% of representatives of local authorities and 77% of managers or members of CSOs – identified the problem of local

government funding of civil society organisations as 'very important' and 'important' for the existing CSO funding system.

It should be noted that virtually the same number of the respondents – 90% in urban and 87% in rural areas – consider this problem to be 'important' and 'very important'.

The funding problem resulting from non-transparency, subjectivity and complexity of project selection process is very important to 48.3%, and 31.3% of the respondents believe it to be important for CSO funding. If we look at answers of the respondents from the regional angle, it proved to be the most important in Donetsk region (88%). In other regions, the number of the respondents that believe the problem resulting from non-transparency, subjectivity and complexity of project selection process to be 'very important' and 'important' was distributed fifty-fifty, on average.

It should be noted that all the answers to questions regarding CSO local government funding problems formalised by us in the questionnaire were supported by most respondents (identified as 'very important' or 'important'). In the similar way, this problem is also regarded by representatives of local authorities (88%) and managers or members of CSOs (74%) that identified it as 'very important' and 'important' for the existing CSO funding system.

It should be also emphasised that importance of this issue was unanimously supported by the respondents from urban and rural areas (80%).

The expert interview included answering open questions regarding problems of the existing CSO local government funding system. The respondents' open answers were analysed, generalised and grouped. Conclusions as to the 'Main problems of the existing CSO local government funding system' thought by the respondents to be the most relevant are listed below:

1. Lack of interest in supporting civil society development among local authorities. Especially, this applies to those managers who, in the first place, being politically slanted and unprofessional, have worked within local authorities rather a little.

2. The current budget settlement system. Because of rather small local budgets and their deficiency, local authorities (including village and small town areas) have very limited resources to fund CSOs and support social projects.

3. Civil society development is not always seen as a priority as mapping out programmes funded from the local budget. Local authorities have their own, rather uncertain view of specific civil society development problems solution of most of which can be delegated to civil society organisations.

4. Complexity of the funding process pursuant to applicable budget law. The existing practice of social contracting is encumbered with some objective factors – the need to go through complex formal processes of opening treasury accounts, budget funding and reporting, and subjective ones – in some cases, the key role is played by having personal relationships with a manager making decisions.

5. Non-transparency and thus low awareness of opportunities to attract financial resources from the local budget among civil society organisations.

6. Corrupted competitive practices of receiving grants, 'kickbacks', etc.

7. Lack of proper regulation of selection of civil society organisations through tendering processes at the legislative level and vagueness of funding priorities, which results in their lacking a system and diversification.

8. Lack of development strategies for urban and rural communities supported by socio-economic development programmes.

9. Poor expertise of the staff and managers of CSOs. Lack of professional skills in developing projects and setting their budget for tenders.

10. Low civic consciousness. Poor community funds.

3.2.4. RESPONDENTS' PERCEPTION OF THE LOCAL GOVERNMENT FUNDING MODEL

The respondents were asked open and closed questions to provide insight into their attitudes towards the CSO local government funding model. Generalised results of distribution of the respondents on the basis of their answers to the posed questions are shown in fig. 3.9.

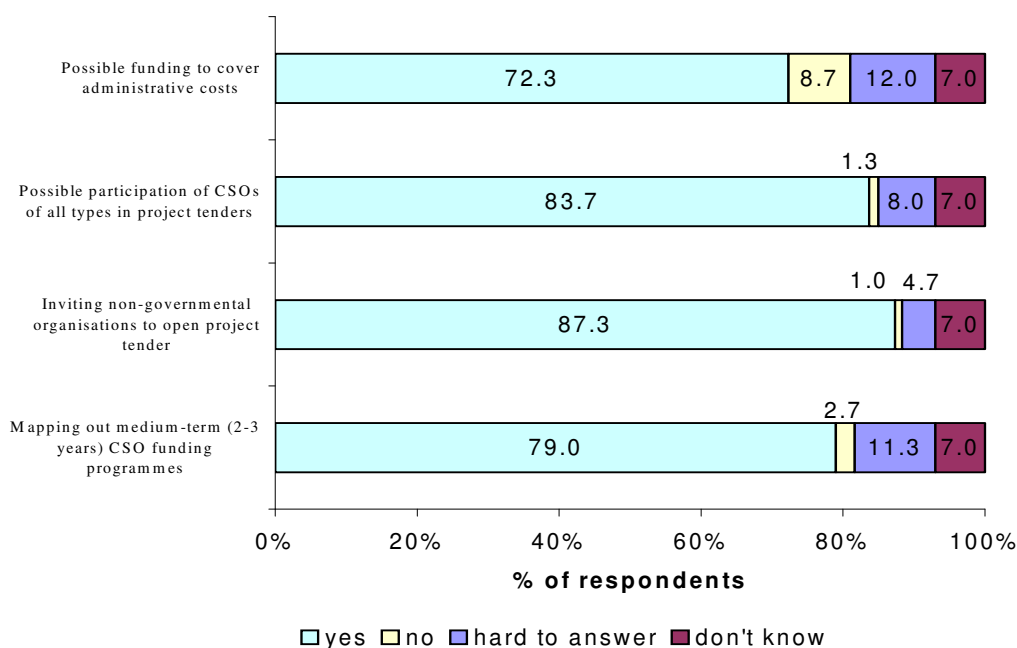


Fig. 3.9. Distribution of the respondents on the basis of their answers to the question: 'WHAT, IN YOUR VIEW, SHOULD BE THE CSO LOCAL GOVERNMENT FUNDING MODEL?', % OF RESPONDENTS, N=300

The vast majority of the respondents (87.3%) supported 'Inviting non-governmental organisations to open project tender' as a CSO funding model. This model will foster, on the one hand, transparent action of local authorities, and on the other hand, equal access of civil society organisations to resources of the local budget. This model was supported by 89.2% and 81.8% of the respondents from urban and rural areas respectively.

It should be noted that 97.3% of the respondents representing local authorities assessed this CSO funding model positively. This indicates that local authorities are prepared to an open dialogue with the public. A positive, though more moderate attitude towards this model is also characteristic of managers and members of CSOs. Rather large percentage (79.8%) of the respondents from among managers or members of CSOs assessed the model positively. A 17.5% difference may show some degree of distrust of those from the government among CSOs. Round table discussions in five regions of Ukraine and Kyiv show that such an attitude the public has towards the government, as it were, became a tradition, though devoted and active steps taken by the government toward establishing relationships based on openness and interest in social development could produce some results.

Eighty-three point seven per cent of the respondents supported possible participation of CSOs of all types in project tenders as an effective funding model. The model was accepted by 84.3 and 81.8% of the respondents from urban and rural areas respectively.

Ninety point five per cent of the respondents representing local authorities assessed this CSO funding model positively. It was also supported by 77.4% of the respondents from among managers or members of CSOs.

The model ranked third by the respondents is mapping out medium-term (2-3 years) CSO funding programmes. Most respondents (79%) believe the development of medium-term funding programmes to be an effective CSO funding model. 78 and 81.3 per cent of the respondents from urban and rural areas respectively assessed this model positively.

Eighty-nine point two per cent of the respondents representing local authorities and 71.4% of those from among managers or members of CSOs also support the development of medium-term CSO funding programmes.

The model of possible funding to cover administrative costs was supported by 72.3% of the respondents. The model was accepted by 73.5 and 68.8% of the respondents from urban and rural areas respectively.

Seventy-seven per cent of the respondents representing local authorities and 71.4% of those from among managers or members of CSOs assessed possible funding to cover administrative costs positively.

The expert interview included answering open questions regarding the CSO local government funding model. The respondents' open answers were analysed, generalised and grouped. To summarise answers to the open question regarding 'Perception of the CSO local government funding model', it should be noted that the respondents think that the CSO local government funding model should allow for:

1. Development of short-, medium- and long-term CSO funding programmes aimed at their carrying out particular social projects.
2. Development of a simplified process of local budget funding and its use.
3. Mandatory CSO training in filling out proposals and setting project budgets.
4. CSOs' administrative costs complementing the programmed activities rather than being the main costs.
5. CSO local government funding occupying a definite place within the general CSO funding system and interacting with other CSO funders.
6. Funding from local budgets within 30% of CSOs' total costs.
7. Setting up regional foundations combining particular civil society organisations depending on the area, with mixed funding. Managers of the regional funds should be elected for a fixed period, and the specialist staff of the foundations is permanent.
8. Low level of the government's confidence in CSOs and low awareness of the government of community problems.

3.3. Problems of funding from the private sector and individual citizens

Block IV of the questionnaire contained questions about CSO non-government funding, regarding possible funding from the business, private persons, and the organisations' capacity to earn money independently.

The respondents assessed the main problems of the existing CSO non-state funding system offered in the questionnaire and their importance for development of CSOs using a scale, 'very important'-'important'-'unimportant'-'hard to answer'. Besides problems outlined in the questionnaire, respondents were asked to name other problems with non-government funding of CSOs and assess their importance. In this way, the widest coverage of the research topic was achieved.

The general results of distribution of the respondents on the basis of their answers to the posed questions are presented in fig. 3.10. divided into two parts because of a large number of questions characterising problems of the existing CSO non-state funding system.

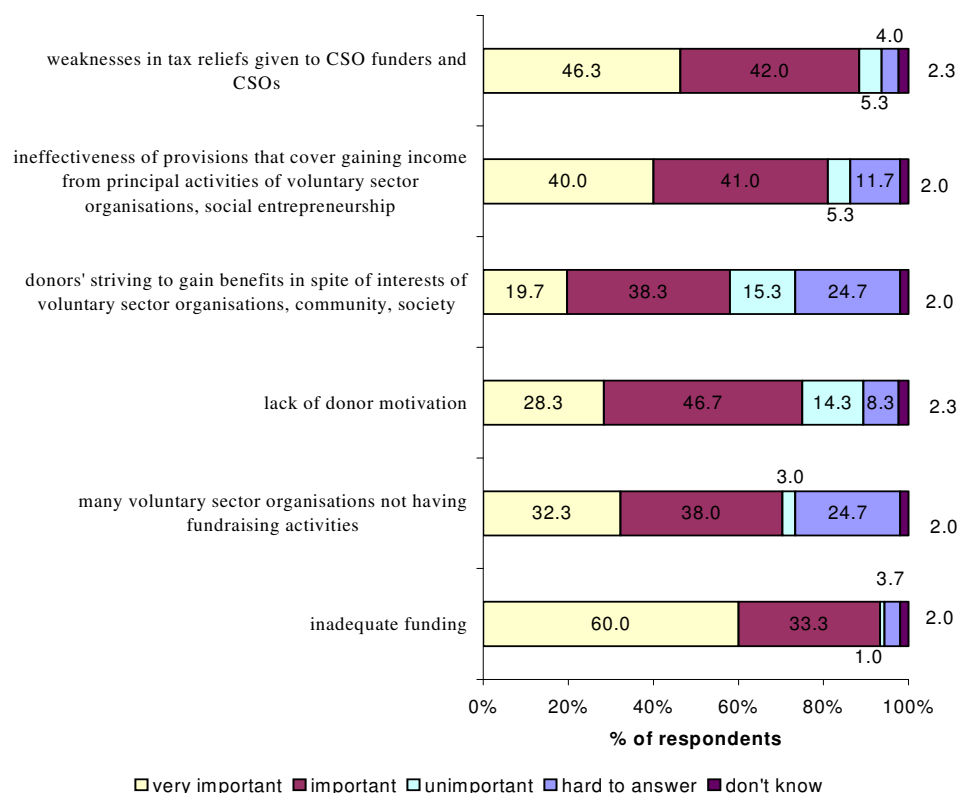


Fig. 3.10. (first part) Distribution of the respondents on the basis of their answers to the question: *'THE MAIN PROBLEMS OF THE EXISTING CSO NON-STATE FUNDING SYSTEM AND THEIR IMPORTANCE FOR DEVELOPMENT OF CSOs'*, % OF RESPONDENTS, $N=300$

Fig. 3.10. shows that the biggest non-government funding problem is its inadequacy: 60% of the respondents consider this problem to be very important, 33.3% assess it as important, and only 1% of the sample think that this problem is unimportant. Therefore, the number of the respondents that identified this problem as 'very important' and 'important' reaches 93.3%. Analysis of distribution of answers of the respondents in urban and rural areas shows that 94% and 93% of them said that inadequacy of non-government funding is 'very important' and 'important' CSO funding problem respectively.

It was interesting to look into attitudes the business/private sector has towards this. Results of the interview show that 95% of representatives of the business/private sector believe funding inadequacy to be very important and important issue. Ninety-three per cent of the respondents from among managers or members of CSOs answered the question in the same way. If we rank non-state funding problems by the number of respondents that assessed them as 'very important', the problem put by us as 'Small and medium business liable to single tax becoming unable to reduce taxes by providing assistance to the non-profit sector' is ranked second. Forty-nine point three per cent of the respondents identified this problem as 'very important' and 37.7% as 'important', 87% in aggregate.

Analysing distribution of answers of the respondents from urban and rural areas, it should be noted that 85% and 94% pointed out that the small and medium business liable to single tax becoming unable to reduce taxes by providing assistance to the non-profit sector is very important and important CSO funding problem respectively.

Representatives of the business/private sector and managers or members of CSOs are unanimous in their view of this question. Ninety-four per cent of the interviewed representatives of the business/private sector and 90% of those from among managers or members of CSOs think the small and medium business liable to single tax becoming unable to reduce taxes by providing assistance to the non-profit sector to be very important and important.

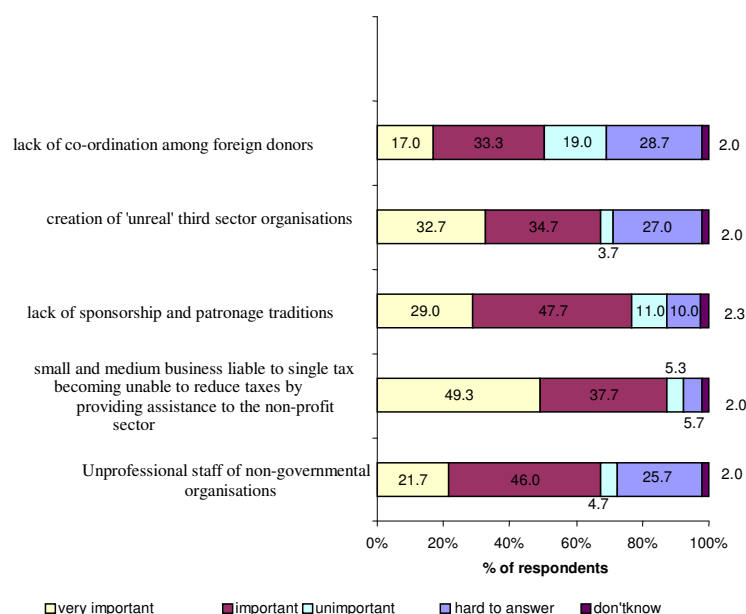


Fig. 3.10 (second part). Distribution of the respondents on the basis of their answers to the question: *'THE MAIN PROBLEMS OF THE EXISTING CSO NON-STATE FUNDING SYSTEM AND THEIR IMPORTANCE FOR DEVELOPMENT OF CSOs'*, % OF RESPONDENTS, N=300

The next non-government funding problem is 'weaknesses in tax reliefs given to CSO funders and CSOs'. Forty-six point three per cent of the respondents identified this problem as 'very important', and 42% as 'important', 86.3% in aggregate.

As regards distribution of answers of the respondents from urban and rural areas, 88% and 91% pointed out that weaknesses in tax reliefs given to CSO funders and CSOs are very important and important CSO funding problem respectively.

A way in which representatives of the business/private sector and managers or members of CSOs regarded this proved to be unanimous – 94% within each group believe weaknesses in tax reliefs given to CSO funders and CSOs to be very important and important.

The next non-government funding problem studied by us was 'many civil society organisations not having fundraising activities'. Thirty-two point three per cent of the respondents identified this CSO funding problem as 'very important', and 38% as 'important', 70.3% in aggregate.

Analysing distribution of answers of the respondents from urban and rural areas, it should be noted that 69% and 77% said that many civil society organisations not having fundraising activities is very important and important CSO funding problem respectively.

Representatives of the business/private sector and managers or members of CSOs regard this in the similar way. Seventy-three per cent of the interviewed representatives of the business/private sector and 79% of those from among managers or members of CSOs think many civil society organisations not having fundraising activities to be very important and important.

An important non-government funding problem is 'lack of donor motivation'. Twenty-eight point three per cent of the respondents identified this CSO funding problem as 'very important', and 46.7% as 'important', 75% in aggregate.

Seventy-seven and seventy-two per cent of the respondents from urban and rural areas pointed out that lack of donor motivation is very important and important CSO funding problem respectively.

Representatives of the business/private sector and managers or members of CSOs answered this question largely in the same way. Seventy-four per cent of the interviewed representatives of the business/private sector and 83% of those from among managers or members of CSOs believe lack of donor motivation to be very important and important.

An important non-government funding problem is also 'lack of sponsorship and patronage traditions'. Twenty-nine per cent of the respondents identified this CSO funding problem as 'very important', and 47.7% as 'important', 76.7% in aggregate.

Analysing distribution of answers of the respondents from urban and rural areas, it should be noted that 76% and 81% pointed out that lack of sponsorship and patronage traditions is very important and important CSO funding problem respectively. Representatives of the business/private sector and managers or members of CSOs regard this in the similar way. Seventy per cent of the interviewed representatives of the business/private sector and 79% of those from among managers or members of CSOs think lack of sponsorship and patronage traditions in Ukraine to be very important and important.

An equally important non-government funding problem is 'creation of 'unreal' third sector organisations', that is, those that exist from grant to grant and promote their organisation as such rather than function as a civil society organisation. Thirty-two point seven per cent of the respondents identified this CSO funding problem as 'very important', and 34.7% as 'important', 67.4% in aggregate.

Analysing distribution of answers of the respondents in urban and rural areas, it should be noted that 66% and 72% pointed out that creation of 'unreal' third sector organisations is very important and important CSO funding problem respectively. Representatives of the business/private sector and managers or members of CSOs regard this in the similar way. Sixty-four per cent of the interviewed representatives of the business/private sector and 66% of those from among managers or members of CSOs think creation of 'unreal' third sector organisations to be very important and important.

An important non-government funding problem is also 'unprofessional staff of non-governmental organisations'. Twenty-one point seven per cent of the respondents identified this CSO funding problem as 'very important', and 46% as 'important', 67.7% in aggregate.

Analysing distribution of answers of the respondents in urban and rural areas, it should be noted that 66% and 73% said that unprofessional staff of non-governmental organisations is very important and important CSO funding problem respectively.

It should be noted that only 52% of the interviewed representatives of the business/private sector think unprofessional staff of non-governmental organisations to be very important and important. Furthermore, a significant number of the respondents (44%) did not give their view of the question. This can be associated with the fact that so far some representatives of the business/private sector do not see civil society as a professional force able to influence the government, business, population and implement significant social projects.

Seventy per cent of the interviewed managers or members of CSOs believe the problem of unprofessional staff of non-governmental organisations to be very important and important.

An important non-government funding problem is 'donors' striving to gain benefits in spite of interests of civil society organisations, community, society'. Nineteen point seven per cent of the respondents identified this CSO funding problem as 'very important', and 38.3% as 'important', 58% in aggregate.

Fifty-seven and sixty-three per cent of the respondents in urban and rural areas respectively pointed out that donors' striving to gain benefits in spite of interests of civil society organisations, community, society is very important CSO funding problem. The representatives of the business/private sector and managers or members of CSOs answered this question largely in the same way. Forty-five per cent of the interviewed representatives of the business/private sector and 58% of those from among managers or members of CSOs think the problem of donors' striving to gain benefits in spite of interests of civil society organisations, community, society to be very important and important.

The last non-government funding problem of those listed in the interview is 'lack of coordination among foreign donors'. Seventeen per cent of the respondents identified this CSO funding problem as 'very important', and 33.3% as 'important', 50.3% in aggregate.

Analysis of distribution of answers of the respondents in urban and rural areas shows that

48% and 59% pointed out that lack of co-ordination among foreign donors is very important and important CSO funding problem respectively.

The representatives of the business/private sector and managers or members of CSOs answered this question largely in the same way. Forty-one per cent of the interviewed representatives of the business/private sector and 55% of those from among managers or members of CSOs think lack of co-ordination among foreign donors to be very important and important.

In conclusion of the review of CSO non-government funding problems, it should be emphasised **that all formalised answers to all the questions were supported by most respondents (minimum 50%) and were 'very important' or 'important'.**

It is characteristic that less than one half (45.8%) of the representatives of the business/private sector answered 'yes' to the question 'Did you or your organisation provide funding to CSOs?'. Positive examples of CSO funding are known only to 34.7% of the representatives of the business/private sector. This indicates the need to provide an appropriate information framework to cover activities and the role of CSOs in social life, and integrated means for incentivising the business/private sector to fund CSOs.

In general, most questions showed that the respondents regarded the existence of CSO non-state funding problems largely in the same way. Most answers of the respondents such as 'hard to answer' are associated with lack of openness in activities of particular CSOs, as well as necessary expertise of CSO staff and business patronage traditions in modern history of Ukraine. In most cases, the respondents answered 'hard to answer' to questions regarding importance of the following problems:

- 'many civil society organisations not having fundraising activities';
- 'lack of donor motivation';
- 'ineffectiveness of legislative provisions that cover gaining income from principal activities of civil society organisations';
- 'donors' striving to gain benefits in spite of interests of civil society organisations, local community or society in general';
- 'unprofessional staff of non-governmental organisations';
- 'lack of sponsorship and patronage traditions';
- 'creation of 'unreal' third sector organisations';
- 'lack of co-ordination among foreign donors'.

The expert interview included answering open questions regarding other CSO non-state funding problems. The respondents' answers to the open questions were analysed, generalised and grouped. Conclusions as to the open question about 'problems of the existing CSO non-state funding system' are listed below:

1. Lack of state's reliefs for the business. Given reliefs, CSOs could use business money in particular directions more efficiently.
2. The system of taxes should be more oriented to the development of civil society.
3. Co-ordination and effectiveness of the use of donors' money by CSOs need betterment.
4. Lack of expertise, some information and CSOs' experience in the area of attraction of non-state funding. On the other hand, lack of expertise holds business players back from funding CSOs.
5. Low civic and people's activity.
6. Poor popularisation of sponsorship and patronage ideas in the Ukrainian society.
7. The society's low awareness of CSO activities.
8. Lack of a systematic and accessible publication that would provide information on CSO non-state funding opportunities and their needs.
9. Sometimes, donor priorities do not meet interests of communities.

3.4. Problems of funding from delivery of paid services

As can be seen in fig. 3.10. (first part), a significant non-government funding problem is 'ineffectiveness of legislative provisions that cover gaining income from principal activities of civil society organisations, social entrepreneurship'. Forty per cent of the respondents identified this CSO funding problem as 'very important', and 41% as 'important', 81% in aggregate.

Analysing distribution of answers of the respondents in urban and rural areas, it should be noted that 81% and 84% said that ineffectiveness of legislative provisions that cover gaining income from principal activities of civil society organisations, social entrepreneurship is very important and important CSO funding problem respectively.

The representatives of the business/private sector and managers or members of CSOs regarded the problem largely in the same way. Seventy-eight per cent of the interviewed representatives of the business/private sector and 87% of those from among managers or members of CSOs think the problem of ineffectiveness of legislative provisions that cover gaining income from principal activities of civil society organisations, social entrepreneurship to be very important and important.

It should be noted that it was hard to answer the question regarding ineffectiveness of legislative provisions that cover gaining income from principal activities of civil society organisations to around 12% of the respondents. In our view, such a situation can be explained by the answer to another question, that about 'lack of expertise, some information and CSOs' experience in the area of attraction of non-state funding' and 'consumerist' spirit of particular organisations.

Conclusion: the vast majority (81%) of members of the civil society organisation are willing to earn money to achieve statutory aims of their organisations and their development on their own. But they are hampered in this by the existing system of laws – 'ineffectiveness of provisions that cover gaining income from principal activities of civil society organisations, social entrepreneurship'.

Answering open questions about opportunities to deliver paid services, the respondents most often proposed to '*allow CSOs to engage in business activities*'.

3.5. Problems of funding from other sources

Other sources of funding include membership subscriptions by CSO members and passive incomes. Unfortunately, our respondents do not have any deposit accounts and do not receive any dividends. However, as can be seen from fig. 3.11, 19% of the interviewed representatives of CSOs said they had other sources of funding.

From the answers to open questions, it can be inferred that such money mainly comes to the organisation from hiring out premises, or vice versa, the organisation uses premises free of charge as a result of delivery of free-of-charge legal and other consulting services, arbitration fees.

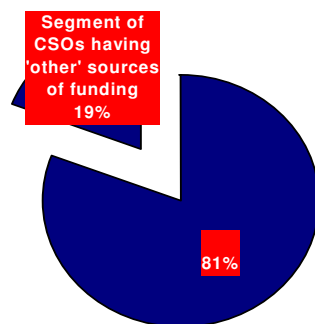


Fig. 3.11. The segment of CSOs having 'other' sources of funding within the sample (number of CSOs within the sample N=84).

Membership subscriptions are rather essential source of funding of CSOs that took part in the survey. Fig. 3.12. shows that membership subscriptions are the sole source of funding of 13% of the organisations, and almost one-third, that is, 29% of the respondents said they are one of sources of funding. Fifty-eight per cent of the interviewed members or managers of CSOs did not identified membership subscriptions as a source of funding of their organisation.

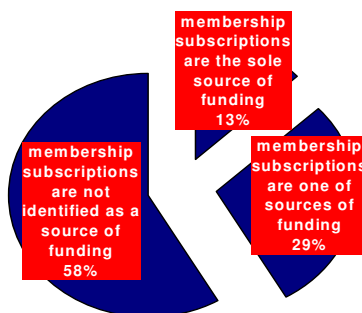


Fig. 3.12. The role of membership subscriptions as a source of CSO funding: segment of respective CSOs within the sample (number of CSOs within the sample N=84)

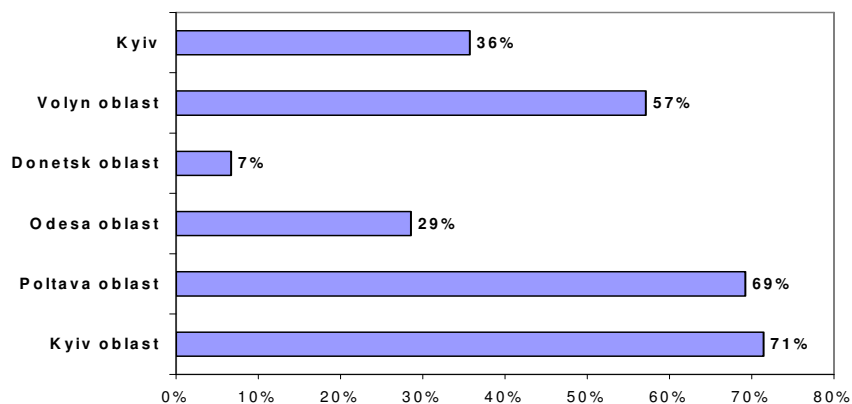


Fig. 3.13. Percentage of CSOs relying on membership subscriptions in sample oblasts

Analysis of fig. 3.13 shows that the vast majority of organisations - 71% of organisations in Kyiv oblast, 69% in Poltava oblast, 57% in Volyn oblast – rely on membership subscriptions. However, it should be noted that only 7% of CSOs in Donetsk oblast are funded by their members, or the respondents ignore membership subscriptions as a source of funding because of their small size.

In our interview, we also looked into existence of control over activities of civil society organisations. The respondents' answers to the question 'Do you know any cases of CSOs being controlled?' are shown in fig. 3.14.

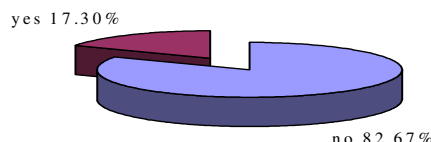


Fig. 3.14. Distribution of the respondents on the basis of their answers to the question: '*DO YOU KNOW ANY CASES OF CSOs BEING CONTROLLED?*', % OF RESPONDENTS, *N=300*

To the above question, 82.7% of the respondents answered 'no', and 17.3% answered 'yes'. Ninety-one point seven per cent of the representatives of the business/private sector and 77% of representatives of local authorities answered 'no'. It should be noted that the respondents that answered 'yes' did not explain their answer.

3.6. Positive examples of funding of civil society organisations

Only 36.3% of the respondents said that they knew positive examples of funding. Only 39.2% of 74 representatives of local authorities that participated in the research answered 'yes' (fig. 3.15.). However, the questionnaire offered the respondents to answer the open question regarding positive examples of funding of CSOs.

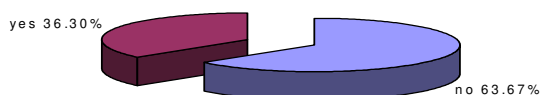


Fig. 3.15. Distribution of the respondents on the basis of their answers to the question: '*DO YOU KNOW ANY POSITIVE EXAMPLES OF CSO FUNDING?*', % OF RESPONDENTS, *N=300*

However, summarised answers to the open question showed that financial and other

assistance can be provided to CSOs and civil society along various lines, for example:

- contributions to different celebrations;
- providing assistance to youth, children and sports organisations, schools, kindergartens, people with disabilities and veterans;
- ecological and art competitions, conferences, workshops;
- development of green travel and travel information centres;
- restoration of cultural, historic and spiritual heritage;
- patronage of children care homes;
- assistance to and improvement of local areas;
- delivery of different services;
- development of infrastructure in rural areas, etc.

The respondents' answers can be grouped by a source and mechanisms of funding:

1. Positive examples of central and local budget funding:

- 1.1. Competing youth support programmes (family and youth departments of Odesa oblast state administration);
- 1.2. Funding from the local budget (Odesa) is provided to support some events undertaken by civil society organisations, inviting civil society organisations to tender for social projects;
- 1.3. Over a few years, some local authorities (village, rayon and city councils) were funded from the local development foundation, having won the tender launched by the Cabinet of Ministers of Ukraine (Foundation for Local Self-Government in Ukraine);
- 1.4. Some projects were supported by the Odesa Oblast Foundation for Local Self-Government. The Agroindustrial Development Department launches tenders for budget funding to deliver social consultancy services;
- 1.5. Country people receiving free-of-charge consultations from different economic sectors and training at workshops and presentations;
- 1.6. Rural travel development projects supported, inter alia, by local authorities;
- 1.7. Village council helping all villagers to get gasified, improving local areas, etc.;
- 1.8. City veterans association is funded from the local, not central budget;
- 1.9. CSO funding from the local budget, if necessary.

Notwithstanding a positive funding practice in place and fruitful co-operation with local authorities, many respondents pointed out that they, unfortunately, do not know any cases of CSO support by the state.

2. Positive examples of funding from the business/private sector:

- 2.1. Provision of non-refundable financial assistance for purchase of wheelchairs;
- 2.2. Provision of charitable assistance to veterans;
- 2.3. Putting veterans on care lists of rayon enterprises, veterans sponsorship;
- 2.4. Funding of junior sports events;
- 2.5. Funding of different charitable activities – support of a children care home, sponsorship of different events, etc. – by the enterprise;
- 2.6. Delivery of equipment to schools and government institutions, repairs of equipment, etc.;
- 2.7. In 2010 the enterprise has started Mayetok social project: rural households have been given piglets, fodder and technology. As distributing piglets, Pan Kurchak agroindustrial group signs an agreement undertaking to purchase produced pork at a fixed price. In this way, many rural households gained additional income;
- 2.8. 'As a private entrepreneur, I've participated in most marathons held by Volyn oblast organisation of the visually handicapped. The last was run under the slogan 'A blind

child wants a tactile book'. The raised funds were used to print two books of the Harry Potter series (using braille code). My money became a part of money raised for this good purpose';

- 2.9. 'We closely co-operate with and provide assistance to a retirement home, deaf-mutes school, church, orphan school, rehabilitation centre for drug addicts'.

These positive examples of co-operation suggest that, for active participation of business enterprises and entrepreneurs in civil society development, the state needs to interest them and provide direct benefits, by legally giving more reliefs to the business supporting civil society organisations. The business endeavours to support socially oriented activities directly (without mediation of the state because it uses money ineffectively), and the state should only define a list of activities and types of organisations the reliefs will apply to.

3. *Positive examples of funding from international donors:*

- 3.1. Countrywomen's union, Zinkiv credit union, Zinkiv union of farmers and private land owners were repeatedly given union development grants;
- 3.2. Grant funding from the EU-UNDP Community-Oriented Local Development project aimed at fostering sustainable socio-economic development at the local level;
- 3.3. '2002-2006 saw the Country People's Welfare Improvement Programme working in our (Velyka Mykhaylivka) rayon to give powerful impetus to the development of civil society organisations, first of all, youth and women's ones, within the rayon';
- 3.4. The School Of Tomorrow programme funded by the Netherlands Embassy in Ukraine proved to be very beneficial;
- 3.5. Provision of refundable assistance to small producers (especially, in rural areas) aimed at the development of their business fostered self-employment, creation of new workplaces, replenishment of the local and central budgets;
- 3.6. Inviting informal activist groups to tender for mini grants to solve social problems within rural communities. Limited funding of mini projects made it possible to mobilise rural activists to tackle their own problems. Over time, some of these activist groups grew into officially working civil society organisations;
- 3.7. Heifer Project International. The project is aimed at assisting rural people provided that they will subsequently help others. This allows even ordinary country folk to be donors. Furthermore, relatively modest funding can provide assistance to a lot of people, because the programme is quick to encompass all the villagers;
- 3.8. The most widespread examples of funding of civil society organisations in our rayon include funding from international donors, for example, the European Union. As successes in our rayon, I could cite the two examples: the Tarutyne steppe preservation project and rural travel development project;
- 3.9. Our rayon has a few civil society organisations actively working with young people. They receive main funding from projects funded by foreign foundations. Unfortunately, local or central funding of these organisations is minimal or is lacking almost altogether;
- 3.10. Countrywomen's Union of Ukraine and Nadiya women's organisation were funded within the framework of international projects, the state did not provide any money;
- 3.11. Project funding by the Swedish Farmers Association. The project includes mapping out and adoption of the CSO development programme, setting up oblast and rayon farmers centres;
- 3.12. Poland-Ukraine-Belarus neighbourhood programmes;
- 3.13. The main donor of the All-Ukrainian Network of People Living with HIV is the Global Fund to Fight AIDS, Tuberculosis and Malaria. Using money of this fund, Ukraine has implemented most programmes aiming at overcoming HIV/AIDS epidemic; the donor closely monitors the use of funding, and it is devoted to fighting epidemic. It is very

important that work of the civil society is the responsibility of the government rather than international donors, as it is the case.

These examples show very significant influence of international donors on the development of CSOs in different areas in Ukraine. From the point of view of the development of civil society organisations, not less interesting option is combination of resources of different sources of funding.

4. Positive examples of mixed CSO funding:

- 4.1. Using financial support from the local government and business, a specialised library was set up for the disabled people civil society organisation. Upon requests of the country folk with disabilities, books are delivered by a local postman. Using the similar scheme, medications are made available;
- 4.2. Positive experience has been gained in the process of implementing the EU-UNDP Community-Oriented Local Development project jointly with local authorities of Bolhrad rayon (Odesa oblast) and participation in other tenders for grants;
- 4.3. Assistance from government bodies and the business contributes to holding national cultural events, festivals, cultural exchange (visits to and from Moldova and Romania), etc. It is especially important for education of youngsters, their coming to know traditions and customs of their ancestors;
- 4.4. Our villages have created people's self-organisation committees, written projects and received grants to replace windows in schools, kindergartens, supply hot water to medical institutions in some villages of the rayon. We reclaimed a number of sources playing an important role in supplying water to villages of the rayon, environmental organisations received grants aimed at improvement of the city recreation park, a social project that won the rayon tender was funded from the rayon budget through the entrepreneurship support programme;
- 4.5. The Nadiya association was awarded a project with funding of 100,000 hryvnias aimed at community-oriented local development. Medical out-patient equipment was purchased. The administration provided a 5,000 hryvnias' house free of charge (5,000 hryvnias are community money). A music centre was given to the school. A small school grant was awarded: 3 computers, 15 seats, 3 tables;
- 4.6. In Mykolayivka village (Bilhorod-Dnistrovsky rayon), Perlyna organisation is working rather successfully. It has implemented around a dozen of social projects. It has been funded by the Polish East European Democratic Centre, Foundation for Local Self-Government in Ukraine, Heifer Project International and other organisations, including local ones;
- 4.7. 'In the city and the rayon, a few civil society organisations are working, that are funded by international donors, and partly from local budgets. The Entrepreneurship Support Fund is doing successfully, and a few organisations work in the area of rural travel development';
- 4.8. Civil society organisations can receive main funding from different international foundations. Moreover, in 2007-2008 civil society organisations received some funding from the rayon, but all similar programmes are currently wound up due to the recession;
- 4.9. Co-funding of projects driven by UNDP, the Community-Oriented Local Development project co-ordinating financial action of the community, oblast, rayon, village government and the project itself;
- 4.10. 'The German 'Memory, Responsibility, Future' project funded the project called 'The Meeting Place Is Dialogue'. The aim of the project is to bring activity into life of old people – former prisoners of concentration camps, Ostarbeiters. Project participants set up a club. A fundraising campaign is launched to raise money to conduct meetings of older former prisoners (every Wednesday), two trips are organised. The Advocacy Campaign Against Human Trafficking is under way. The project attracts attention of

Volyn people to human trafficking problems, establishes partner relationships with the government aiming at the development and adoption of the regional human trafficking prevention programme which will feed local funds to combating human trafficking. Active participation of journalists in attracting additional human resources considerably increased the project value';

- 4.11. Joining of efforts of Zabrodivka village council, community, sponsors aimed at solving social problems of the countryside;
- 4.12. Positive experience of co-operation with the city council, Scandinavian mission;
- 4.13. Co-funding of water supply of Chesny Khrest village (Volodymyr-Volynsky rayon) by a foreign charity and the community;
- 4.14. Local deputies and other officials providing one-off and continual support to activities of trade unions and charities by funding their costs or purchases of assets they need.

The above positive co-funding examples show that combining different sources of funding both from local authorities, the business and international foundations is not only an example of beneficial co-operation between the government, business, international community and civil society, but also a powerful tool to facilitate socio-economic development of Ukraine. Joining of efforts of all those interested in creation of developed civil society is a vivid example of how to devise and implement an integral CSO funding model able to unite all those concerned about Ukraine's future.

3.7. Proposals on improvement of CSO funding based on interviews and regional round table discussions

The respondents were asked for their views of strategic, inter alia, legislative actions needed to create an effective CSO funding model.

Formalised answers included:

- development and adoption of the government's targeted Civil Society Development Programme;
- annual provision of CSO funding in state budget laws;
- approval of aims and criteria of CSO government funding;
- setting up the National Civil Society Development Foundation.

Fig. 3.16. shows distribution of the respondents' answers to questions regarding strategic, inter alia, legislative actions needed to create an effective CSO funding model.

Conclusion. Attention should be paid to unanimity of the respondents' views of strategic actions at large aimed at creation of an effective CSO funding model. Ninety per cent of the respondents think it to be expedient to develop and adopt the government's targeted Civil Society Development Programme, and only 3.7% are against it. Ninety-one point seven per cent of the respondents think the approval of aims and criteria of CSO government funding to be needed, and only 2.3% are against it. Eighty-seven point seven per cent of the respondents believe that state budget laws should annually provide for CSO funding, and only 3% are against.

The respondents' answers to the question regarding identification of setting up of the National Civil Society Development Foundation as a strategic action were also ambiguous, similarly to block 2: 61% said 'yes' and 16.3% said 'no'.

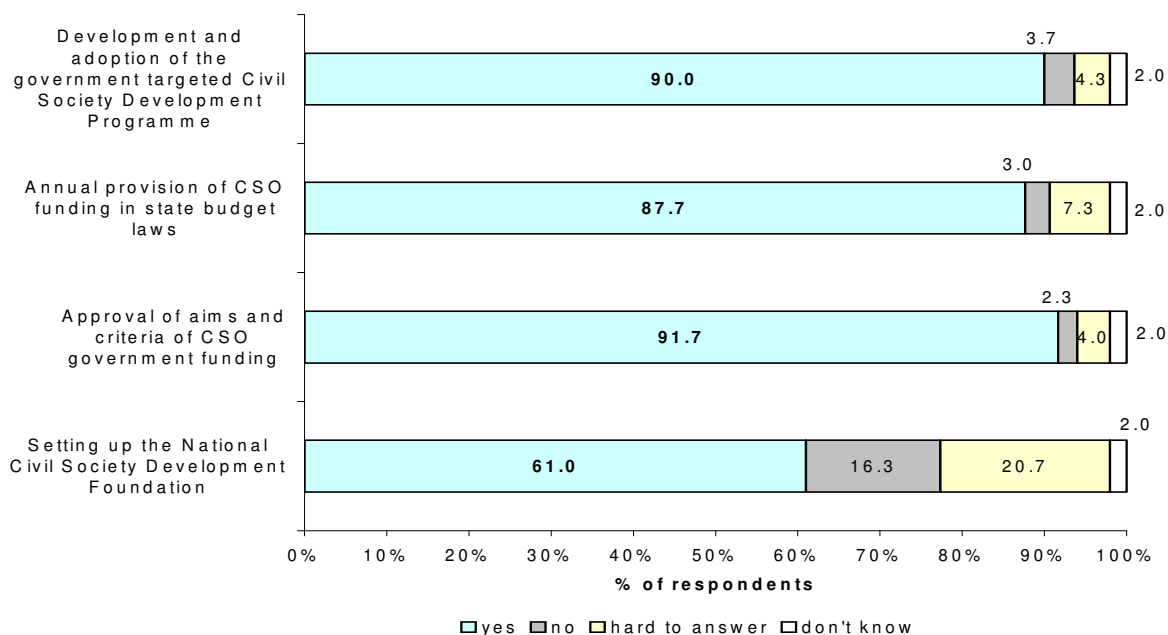


Fig. 3.16. Distribution of the respondents' answers to the question: 'WHAT STRATEGIC, INTER ALIA, LEGISLATIVE ACTION, IN YOUR VIEW, IS NEEDED TO CREATE AN EFFECTIVE CSO FUNDING MODEL?' (N=300)

Given unanimity of the respondents' views on this issue, it is needless to analyse distribution of views different reference groups have. We will focus on answers to open questions of the questionnaire about strategic actions aimed at creating an effective CSO state funding model.

Answers to the open question are partly explained by caution with which the respondents regard setting up the National Foundation for Entrepreneurship Development. One of the respondents explained his negative attitude towards setting up the foundation as follows: *'The assessment of the need to set up the National Foundation or other similar formations calls for a detailed analysis of their programme and statute'*. Supporters of the idea of setting up the foundation motivate their view as follows: *'Undoubtedly, the existence of such a foundation would positively influence unity and co-ordination of their activities, and would allow CSOs' needs and demands to be tracked in a comprehensive and timely way'*.

The respondents' proposals include *'allowing CSOs to engage in business activities'*, *'making Ukraine more interested in cross-border co-operation'*, *'giving tax reliefs to donors'*.

Most proposals concern the CSO development foundation and, in general, are as follows: *'adopting the state's CSO development programme and setting up its fund with donors' money'*, *'setting up regional divisions of the National Civil Society Development Foundation'*, *'programming the use of funding'*.

Besides strategic actions aiming at effective CSO funding, the respondents were asked to assess primary steps needed to be undertaken to create an effective CSO funding model. The results are shown in fig. 3.17.

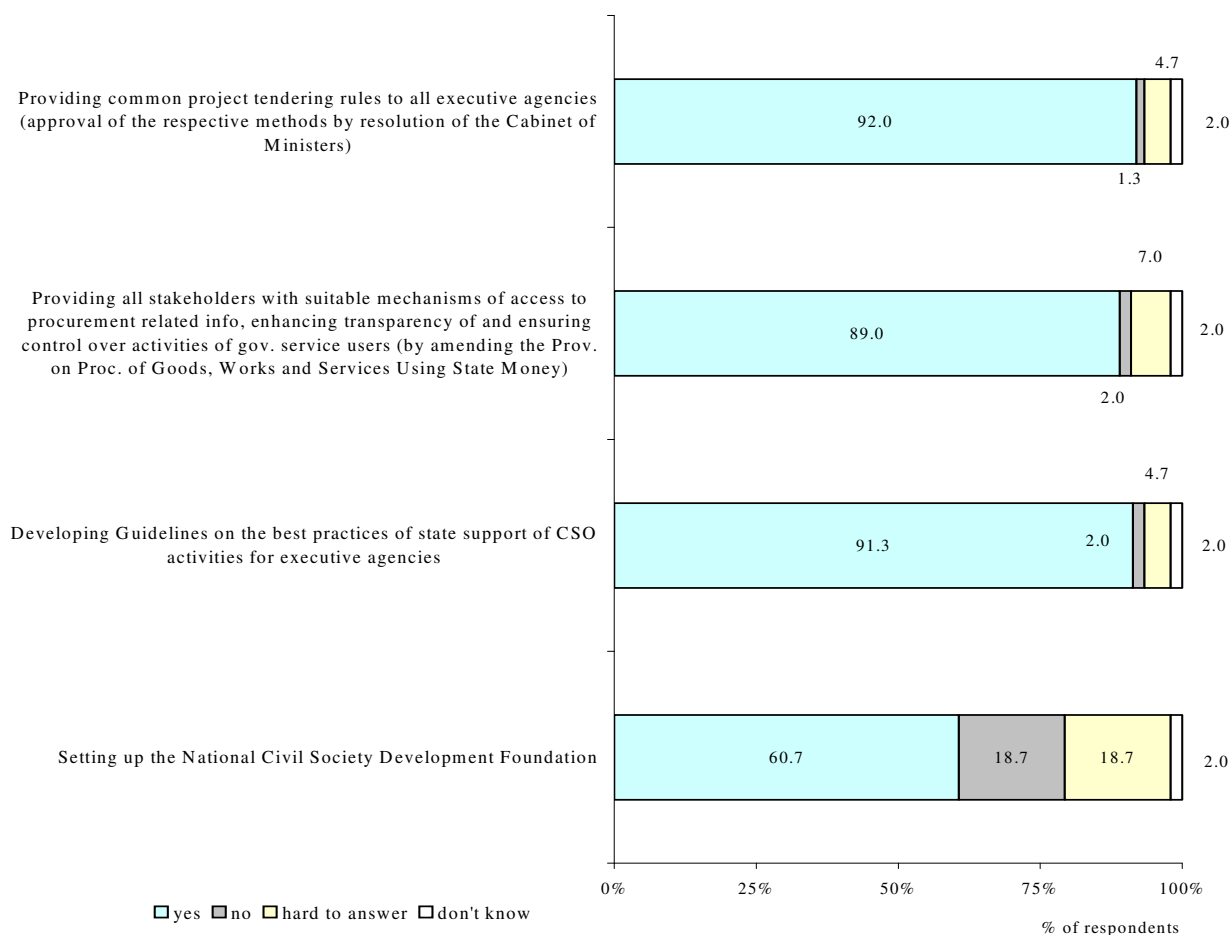


Fig. 3.17. Distribution of the respondents on the basis of their answers to the question: 'WHAT PRIMARY STEPS, INCLUDING THOSE AIMED AT CREATING THE LEGISLATIVE FRAMEWORK, NEED, IN YOUR VIEW, TO BE UNDERTAKEN TO CREATE AN EFFECTIVE CSO FUNDING MODEL?', % OF RESPONDENTS (N=300)

Conclusion. Data from fig. 3.17. show that the respondents are almost unanimous in saying 'yes' to the following primary steps: 'providing common project tendering rules to all executive agencies (approval of the respective methods by resolution of the Cabinet of Ministers)' (92% said 'yes', and 1.3% 'no'); 'providing all stakeholders with suitable mechanisms of access to procurement related information, enhancing transparency of and ensuring control over activities of government service users (by amending the Provision on Procurement of Goods, Works and Services Using State Money)' (89% said 'yes', and 2% 'no'), 'developing Guidelines on the best practices of state support of CSO activities for executive agencies' (91.3% said 'yes', and 2% 'no'). However, the 'setting up the National Civil Society Development Foundation' proposed in the questionnaire (this time as an time-scaled, not strategic step) received 'cautious' support again (60.7% said 'yes', and 18.7% 'no').

Given almost complete unanimity of answers to the question regarding primary CSO state funding steps and distribution of the respondents' views of the foundation similar to previous questions, it would be unreasonable to look into views had by the main reference groups in detail.

Instead, let us analyse answers to non-formalised (open) questions. The respondents' only two proposals meet the general context of questions formulated in the questionnaire and are about the development of rural areas and creation of regional subdivisions of the National Foundation:

'developing the long-term Civil Society Development Programme (for rural areas), identifying priorities' and 'setting up regional divisions'.

In November, within the framework of the two projects – 'Civil Society International Best Practice Research' and 'Developing Institutional Framework of Funding Civil Society Organisations in Ukraine' – the OSCE office in Ukraine conducted five regional round table discussions in Simferopol, Odesa, Lviv, Kyiv and Donetsk. The aim of these was:

- to present preliminary results of three researches undertaken within the framework of the above OSCE projects on the following topics:
 - ✓ research into and analysis of existing Ukrainian laws regulating funding of civil society organisations by government bodies, local authorities and the private sector;
 - ✓ the best international practices and experience in the area of funding of civil society organisations by government bodies, local authorities and the private sector;
 - ✓ foreign experience in enhancement of confidence between government bodies and the public in the process of their co-operation (dialogue);
- to discuss the existing forms of funding of civil society organisations in regions, and issues of their *putting into practice*.

Participants in round table discussions represented local executive agencies responsible for civil society development, civil society organisations and business circles. Participants in each round table discussion representing the three above sectors were invited from the oblast where the event took place and neighbouring oblasts, in particular, Crimean representatives went to Simferopol; representatives from Odesa, Mykolayiv, Kherson and Kirovohrad oblasts went to Odesa; those from Lviv, Transcarpathian, Volyn, Chernivtsi, Ivano-Frankivsk, Ternopil, Rivne and Khmelnytsky oblasts went to Lviv; those from Kyiv, Chernihiv, Sumy, Poltava, Cherkasy, Zhytomyr and Vinnytsya oblasts went to Kyiv; those from Donetsk, Luhansk, Zaporizhzhya, Kharkiv and Dnipropetrovsk oblasts went to Donetsk.

Round table discussions saw participants put forth a number of helpful proposals as to improving mechanisms of funding of civil society organisations and provided comments on the existing situation, from among which the following can be cited:

- enhancing the list of CSOs entitled to state funding in the Budget Code;
- providing access to funding for local organisations, especially, from subsidised regions;
- funding of CSOs that have demonstrated their implementation capacity based on previous examples;
- CSOs' providing training in CSO capacities at the local level in rural communities;
- international donors, fundraising, social contracting regulation should be in place at the local level;
- more detailed analysis of passive income taxation (especially, bank deposits) and clarification of the situation;
- imposing criminal or administrative liability for ignoring civil society organisations;
- maximum preferences for CSOs' capacity to earn money independently, maximum assistance in attraction of funding from tax laws;
- simplifying the process of liquidation of civil society organisations with legal personality;

- developing sponsorship and patronage traditions. Drafting the volunteering law anew, because the existing law is, in fact, abnormal – there are volunteer responsibilities and no incentives. A list of school children volunteer work should be introduced through the department of education, in order to allow a child to choose, as before, between helping the elderly, sports promotion, neighbourhood area cleaning, etc. Children that engaged in any sponsored activity will become sponsors themselves when grown-up, because they know where such money goes from childhood;
- increasing funding of youth organisations, because on the ground they receive residual funding;
- developing a local level environmental protection programme (for particular recreation areas);
- amending the law 'On Charity and Charitable Organisations' where it covers donor incentives;
- social entrepreneurship: regulatory framework needs to be improved;
- organisations entitled to government funding (social contracting) should be as loyal to the government as possible, those in opposition can not receive funding a priori. The state imposes its outdated CSO funding approaches, it should use other approaches;
- the state would not fund the organisation that does not suit it any more;
- social entrepreneurship should move to the foreground (the Law 'On Social Entrepreneurship' should be passed) – they could help CSOs in attracting and using money and become the state's partners;
- centralisation of CSO funding controlled by the state is out of place, this would deteriorate funding and lead to corruption – this is a wrong way. This results in manipulation of civil society organisations and their use to achieve one's own ends.

3.8. Interim conclusions derived from the analysis of interview and round table discussions

1. There are three most important problems of CSO government funding (ranked in order of importance):

- inadequate government funding;
- lack of programmes to tender for project funding;
- legislative uncertainty of aims and criteria of CSO state funding, government's lacking respective techniques to select competing programmes.

2. Half-hearted CSOs' attempts at receiving government funding are 'provoked' by several problems: lack of CSO state funding tradition; problems with reporting on the use of budget funding; CSOs' low prestige among government bodies; lack of the government funding information system; weaknesses in the government funding process, especially, uneven funding within the year; lack of a legislative provision requiring planning of (oblast, rayon, village) budget spending on CSOs' projects or events.

3. Given unanimity of views of subjects and objects of CSO funding process, one might expect a constructive dialogue between the government and civil society aimed at solving these problems.

4. CSO members living in rural areas regard proposals as to concentrating CSO state funding, for example, in the National Civil Society Development Foundation, with caution. Such an attitude is explained by the fact that rural respondents do not believe that funding from centralised sources would be accessible to rural CSOs, and therefore, insist on setting up regional divisions of such a foundation. However, a two-level (all-Ukraine and regional) CSO

funding model using mechanisms of funding from the central, local budgets, business/private sector, membership subscriptions and grants is supported in every way.

5. In isolated cases, for some reason or other, including a political slant, local authorities do not support civil society development 'on the ground' and have their own, rather uncertain view of specific local community development problems solution of most of which can be delegated to civil society organisations.

6. Because of rather small local budgets and their deficiency, local authorities (including village and small town areas) have very limited resources to fund CSOs and support social projects.

7. Complexity of the funding process pursuant to applicable budget law. The existing practice of social contracting is encumbered with some objective factors – the need to go through complex formal processes of opening treasury accounts for getting budget funding and reporting, and subjective ones – in some cases, the decisive role in securing a contract is played by having personal relationships with a manager making decisions.

8. Non-transparency, and consequently, low awareness of opportunities to attract financial resources from the local budget among civil society organisations. Information on winners of government and local procurement tenders and outcomes of projects or delivery of procurement services is unknown to a wide group of stakeholders.

9. Lack of typical rules regulating tenders launched by government bodies and local authorities to fund projects of/contracts with CSOs and reporting requirements.

10. Development strategies for urban and rural communities supported by socio-economic development programmes and identifying funding priorities are mainly lacking. Scant community funds combining different sources of funding.

11. Inadequate expertise of the staff and managers of CSOs. Lack of professional skills in developing projects and setting their budget for tenders for all types of funding.

12. The state does not give reliefs to the business funding CSOs virtually at all. The business tax system is not aimed at the development of civil society. It is not friendly to the development of sponsorship and patronage in the Ukrainian society.

13. Lack of co-ordination among donors. Sometimes, donors' priorities fail to meet interests of communities.

14. Unanimity of views of the respondents (from all reference groups) and participants in round table discussions on the need for changes in CSO funding processes and opportunities and mapping out strategic actions in order to create an effective CSO funding model.

Participants in the field research almost unanimously supported the following primary steps: 'providing common general project tendering rules to all executive agencies (approval of the respective methods by resolution of the Cabinet of Ministers)'; 'providing all stakeholders with suitable mechanisms of access to procurement related information, enhancing transparency of and ensuring control over activities of government service users (by amending the Provision on Procurement of Goods, Works and Services Using State Money)'; 'developing Guidelines on the best practices of state support of CSO activities for executive agencies'. However, the proposed 'setting up the National Civil Society Development Foundation' received 'cautious' support as a result of concern about excessive control and passing of the existing government funding problems into the new structure.

Instead of this, representatives of civil society proposed another, in their view, more transparent and democratic model – the Public Monetary Fund that we will consider below.

4. Recommendations as to improvement of the existing regulatory framework of Ukraine in the area of funding of civil society organisations

In the above sections, we provided interim conclusions that were based on the results of two components of our research: the desk top component that contained the analysis of the legislative framework of Ukraine as far as CSO funding is concerned and a lot of additional sources on the topic, and the field component that contained results of the interview including answers to open questions of the questionnaire about the existing experience in the area of CSO funding by government bodies, local authorities and the private sector, and results of five regional round table discussions.

The analysis of laws of Ukraine covering CSO funding showed that their provisions mainly meet criteria established in the Fundamental Principles on the Status of Non-governmental Organisations in Europe. However, the field research proved that there is a very significant difference between the theory and practice of application of law at the national and local levels, that can be dealt with by introducing appropriate changes into legislation, government policy that would promote sustainable development of CSOs, foster partner relationships with government on all levels, and support independent public monitoring of CSO funding processes.

The interim conclusions provided us with a secure basis for identification of problems and provision of consolidated recommendations as to improvement of the existing CSO funding mechanisms.

4.1. Funding from government bodies and local authorities

Problems:

- Discrimination provision of the Law of Ukraine 'On Citizens' Associations', article 8, part 3, saying that statutory activities of a civil society organisation may be supported from the State Budget only in case it has the all-Ukraine status;
- Inadequate CSO funding by government bodies and local authorities, lack of programmes to tender for project funding, limited long-term funding;
- Government funding of CSO projects significantly differs from procedures prescribed by law and is departmentally specific on such important issues as payment timelines, CSO contribution requirements;
- Legislative uncertainty of aims and criteria of CSO state funding, government's lacking a unified respective technique to select competing programmes;
- Budget allocations are, in general, rather conditional, that is, amounts provided for in the budget can virtually decrease, advances are not applied as a rule, funding is uneven in time;
- No ministry funds 100% of CSO costs, requiring a contribution by the CSO that often should be only in the form of money;
- Government support given to CSO programmes and projects does not belong to protected expenditures, therefore, the State Treasury can delay payments to CSOs for rather long periods. There are many unjustified restrictions of uses of money;
- Bias against competing newly created CSOs that are lacking implementation or state funding experience;
- Lack of an 'one-stop shop' to help drawing budget funding documents. There are wide differences in departmental practices of reporting, control, monitoring and assessment of CSO projects;
- Unjustified requirements for amending statutory documents of CSOs not expressly set out by law; requirements for special government authorisations (licenses, special registrations, approvals, etc.), unless expressly stated by law;
- Charging income tax on recipients of targeted assistance in the form of social services;
- Charging tax on advertisement informing the public on social services delivered by CSOs;

- Budget funding is often accessible to a limited number of 'pocket' CSOs or civil society organisations showing allegiance to the current government and loyalty to individual officials, and as a rule, the state would not fund a CSO that does not suit it any more.

Proposed solutions:

- Amending the Law of Ukraine 'On Citizens' Associations' or enhancing the list of CSOs entitled to state funding by the new Law 'On Civil Society Organisations';
- Enhancing the list of CSOs entitled to direct state funding in the Budget Code;
- Revision of amounts of government funding (both at the national and local levels) by programming more tenders for CSO project funding;
- Development and approval of a clear procedure for the State Treasury to fund projects or services delivered by civil society organisations using budget money, simplifying the process of opening of treasury accounts of the above CSOs;
- Amending the Law of Ukraine 'On Citizens' Associations' or including provisions lifting restrictions on possible State Budget's support given to statutory activities of civil society organisations based on their status, using tenders in the new Law 'On Civil Society Organisations'; cancelling division of CSOs on the basis of territorial status as an obstacle to access to budget funding and earning incomes from principal activities;
- In order to solve the problem resulting from restricted access of CSOs to long-term funding, budget laws should be amended so as to promote long-term state funding of CSOs, for example, through special foundations;
- In order to eliminate some restrictions put on CSO funding by unfavourable regulatory policy, it is needed to extend actions in the area of deregulation of business activities to main risks associated with CSO funding, especially: requirements for amendments to statutory documents of CSOs not expressly stated by law; requirements for special government authorisations (licenses, special registrations, approvals, etc.), unless expressly stated by law;
- Providing all the ministries with a common technique to invite CSOs to tender to be based on common approved priorities, while preventing duplication of departmental functions;
- Targeted assistance in the form of social services supplied in line with government standards and provisions should be exempt from personal income tax for beneficiaries of this assistance coming both from budget-funded institutions and CSOs;
- Developing new mechanisms of social contracting by government bodies and local authorities to be based on the principles of equality, transparency and reciprocal responsibility for outcomes.
- Developing a mechanism that would provide local civil society organisations, especially, children and youth groups, with equal (with respect to newly created CSOs that are lacking implementation or state funding experience, but have respective capacities and can prove the same) access to government funding;
- Considering low awareness of the public and a function being other than that of commercial advertising, informing the public on social services delivered by CSOs shall be deemed social advertising;
- Developing a government training programme aimed at improving professional skills of managers and members of CSOs in delivering services needed by the state and society.

4.2. Funding from the private sector and individual citizens

Problems:

- Value of money or property delivered to CSOs free of charge that may be incorporated into total costs of enterprises paying profit tax at the standard rate is limited by law to 2-5% of taxable profit gained in the previous reporting year, as well as to 10% of taxable profit in case of providing assistance to enterprises of all-Ukraine associations of Chernobyl victims

in which employment of such persons is at least 75%, and charitable activities of such associations;

- Insignificant tax relief equal to 2-5% of annual taxable income available to natural persons. Minor reliefs given by the state to the business supporting civil society and CSOs. The newly passed Tax Code would, perhaps, improve CSO funding by the private sector on the ground to some extent, but it virtually puts small and medium business liable to single tax out of the 'game', because enterprises will not be able to incorporate money paid to single-taxed entrepreneurs into their total costs, which makes it unreasonable to work with such entrepreneurs that thus will have no income.
- Discrimination of CSOs of particular types receiving non-refundable financial assistance from private donors, based on their status and other characteristics;
- Discrimination of CSOs of particular types in receiving funding, based on their status and other characteristics;
- Competition between budget-funded institutions and CSOs for non-refundable financial assistance from private donors;
- Undeveloped charity, sponsorship and patronage traditions in the society;
- Inadequate co-ordination among international donor organisations in the sector that results in duplication of support and its not meeting actual needs of the society.

Proposed solutions:

- Setting a special quota for non-refundable assistance provided to budget-funded institutions and CSOs in the Law of Ukraine 'On Enterprise Profit Tax' (section 5.2.2) and the Law of Ukraine 'On Personal Income Tax' (section 5.3);
- Exempting one-off and periodic contributions from founders and members of CSOs referred to in the Law of Ukraine 'On Enterprise Profit Tax', section 7.11.1, paragraphs 'b', 'c' and 'd', from enterprise profit tax and VAT;
- Exempting non-refundable assistance provided to CSOs referred to in the Law of Ukraine 'On Enterprise Profit Tax', section 7.11.1, paragraphs 'c' and 'd', from profit tax, on the grounds of constitutional guarantees of equality of civil society organisations before the law;
- Developing a regulatory framework aimed at introducing in Ukraine the so called 'percentage philanthropy' already in place in many European countries where a natural person may ask tax agencies to deduct a percentage (for example, 1%) of a tax charged on the person's income in favour of community benefit organisations recognised by law;
- Improving co-ordination and effectiveness of the use of donors' funding by amending the regulatory framework regulating provision of technical assistance to Ukraine, enhancing responsibilities of sectoral government bodies in the area of contracting international technical assistance in order to avoid its duplication and meet actual needs of the society;
- Drafting the law 'On volunteering' aimed at maximum incentivising of citizens engaged in volunteering;
- Amending the law 'On Charity and Charitable Organisations', the Tax Code, in order to incentivise donors and popularise charitable activities and patronage in the state more effectively.

4.3. Funding from delivery of paid services

Problems:

- Contradictory CSOs' capacities to conduct business independently contained in current law:
 - ✓ The Law of Ukraine 'On Citizens' Associations' (article 24) allows civil society organisations to engage in business and other commercial activities only by establishing self-governing institutions and organisations with a legal personality;
 - ✓ At the same time, the Economic and Civil Codes of Ukraine allow CSOs to engage in those directly, subject to the use of gained profit for the purpose of statutory activities;

- ✓ Furthermore, special Laws allow civil society organisations to directly engage in independent business activities. These are not only disabled people or Chornobyl victims' organisations. This capacity, in particular, is affirmed by laws 'On Co-Operation' (article 23), 'On Professional Artists and Artistic Unions' (article 9), 'On Employer Organisations' (article 11), 'On Credit Unions' (article 21), as well as 'On Charity and Charitable Organisations' (article 20).
- Complicated procedure of registration and liquidation of CSOs with legal personality that is too burdensome to most small organisations;
- Administrative restrictions on CSOs' capacity to use and dispose of their property and property rights in some cases; restriction of CSOs' access to financial services and imposition of administrative financial sanctions for minor or not duly proven breaches;
- The provision of the Law of Ukraine 'On Value Added Tax' covering value of goods or services delivered by CSOs 'within 12 calendar months' to be equal to 300,000 hryvnias limits financial capacities and social activity of a civil society organisation within a calendar year.

Proposed solutions:

- Contradiction between provisions of articles 8 and 24 of the current Law of Ukraine 'On Citizens' Associations' allowing civil society organisations to engage in business activities not only through subsidiaries, but also directly needs to be resolved. CSOs' capacity to engage in independent entrepreneurship, subject to the use of gained profit for the purpose of statutory activities should be brought in line with provisions of the Economic and Civil Codes;
- Developing a mechanism of legislative incentivising of CSOs to earn money independently;
- Improving regulatory framework for social entrepreneurship. Social entrepreneurship and social partnership between the state and CSOs should move to the foreground. The Law 'On Social Entrepreneurship' should be developed and passed which would help CSOs to attract and spend earned money on social projects and be the state's partners;
- Given the complicated procedure of registration and liquidation of legal persons in Ukraine, it is needed to simplify the process of registration and liquidation of civil society organisations with legal personality by correspondingly amending the Law of Ukraine 'On State Registration of Legal Persons and Natural Persons Conducting Business', and the Law of Ukraine 'On Citizens' Associations' (or the draft Law of Ukraine 'On Civil Society Organisations') and respective by-laws;
- Setting forth main provisions on CSO funding and tax administration in respective laws and resolutions of the Cabinet of Ministers of Ukraine; establishing clear and generally understandable criteria of compliance of CSOs' principal activities with non-profit status (in respective laws);
- Amending the Law of Ukraine 'On Value Added Tax' where it fixes the worth of delivery of goods or services, by replacing the sentence 'within 12 calendar months' with 'within calendar year';
- In order to solve the problem resulting from restricted access of CSOs to long-term funding, establishing a special legal status of endowments of private donors and CSOs (the issue is partly addressed by the newly passed Tax Code);
- It is to be stated legislatively (in order to avoid ambiguous interpretation by tax agencies on the ground), what incomes are passive, where they come from and under what conditions they are considered as such;
- Introducing the 'one-stop shop' principle for registration and liquidation of CSOs with legal personality;
- Amending the Law of Ukraine 'On Enterprise Profit Tax' by clearly stating that membership subscriptions of CSOs of all types are not taxable.

4.4. Public Monetary Fund

Development of civil society and comprehensive and systemic solution of CSO funding problems require mapping out and adoption of a strategy and the state's targeted civil society development programme creating an effective CSO funding agency; a regulation establishing aims and criteria of CSO government funding. Besides enhancing the list of CSOs entitled to direct funding from the State Budget, the size of civil society funding set by state budget laws should be increased.

In order to foster civil society development and effective CSO funding, it is needed to devise a mechanism of CSOs' centralised access to funding that comes from different sources: the state and local authorities, international technical assistance and private donors. However, centralisation of CSO funding controlled by the state is out of place, because, according to many respondents and most participants in round table discussions, this would deteriorate CSO funding and lead to corruption and manipulation of civil society organisations.

Based on the field research and results of round table discussion of the model and mechanisms of funding, a two-level (national and regional) CSO funding model is proposed, that will combine CSO funding from all possible sources: central and local budgets, business/private sector, membership subscriptions and international technical assistance grants – the Public Monetary Fund.

The Public Monetary Fund (PMF) has regional divisions given a status of Associations of Citizens (civil society organisations) (article 10 of the Law of Ukraine 'On Citizens' Associations' currently in force) with legal personality.

PMF aims at supporting the civil society development programme and other projects/programmes CSOs implement on the national level. It provides CSOs with qualified help in receiving grants from international donor organisations (legal aid in fundraising, business planning, accounting, training, etc.).

Money comes to PMF from different sources: state budget, business/private sector, CSO membership subscriptions by regional divisions, international technical assistance. Regional divisions support development programmes and other projects/programmes CSOs implement on the regional level. They receive funding from PMF in order to carry out all-Ukraine projects/programmes in the region, from local budget, business/private sector, CSO membership subscriptions.

Management of PMF activities:

1. The management is elected at the CSO meeting (conference, meeting of representatives) every two or three years. It is composed of the board of directors and chief executives (of the fund and divisions). The board of directors includes representatives of the government, CSOs, business/private sector working on a parity basis.
2. The executive body is composed of permanent staff hired pursuant to the Labour Code.
3. Activities of the fund and its divisions are monitored by Supervisory Boards composed of representatives of the government, CSOs, business/private sector.
4. Audit commissions (checking and controlling financial and business activities of the fund and its divisions) are also working that can initiate ad hoc conferences/general meeting, should any misuses/financial violations be uncovered.

PMF reporting takes place annually, at a conference/general meeting. Reports appear in national publications and are posted in the Internet. Online access to information on earnings/expenditures of the fund and its divisions is free. It is accessible online. In this way, transparency of all PMF activities is achieved.

5. Impact of the Tax Code of Ukraine #2755 as of 2 December 2010 on financial state of CSOs

The research into the existing legislative framework of Ukraine regulating funding of civil society organisations (CSOs) by government bodies, local authorities, the business sector and from other sources, as well as experience in the area of government and non-government CSO funding has been done in September-December 2010. However, on 1 January 2011 the Tax Code came into force (excepting its particular provisions) that had been approved by the Verkhovna Rada of Ukraine pursuant to Law of Ukraine 2755 dated 2 December 2010⁸⁸. The Code became the main legislative instrument that regulates paying taxes and charges by natural and legal persons to the central and local budgets of Ukraine.

Though our research was conducted before the above document came into effect, considering its importance, we will see whether the situation in CSO funding changed in light of the Tax Code of Ukraine.

Having come into effect, the Tax Code repealed basic Laws of Ukraine such as laws 'On Enterprise Profit Tax', 'On Personal Income Tax', 'On Value Added Tax' and many other laws and by-laws.

In general, this document must positively influence the taxation system in Ukraine, in particular, with respect to CSOs. Before passing of this document, tax laws of Ukraine could be said to be haphazard and even chaotic, and thus tax relationships were regulated by instruments of different levels – laws, resolutions of the Cabinet of Ministers of Ukraine, decrees of the President of Ukraine, ordinances of ministries and departments and so on, which significantly complicated activities of both business entities and civil society organisations.

The Tax Code of Ukraine has effected a number of changes positive to CSOs the most significant of which are:

- tax reliefs on charitable contributions from legal persons to NGOs (section 138.5.3 of the Tax Code);
- lifting previous limitation of the minimum amount of legal persons' charitable contributions to 2% of income gained in the preceding year (Tax Code, section 138.10.6, paragraph 'a');
- lifting previous limitation of the minimum amount of natural persons' charitable contributions to 2% of total taxable income gained in the preceding year (section 166.3.2 of the Tax Code);
- exemption of incomes from charity tours (section 170.10.5 of the Tax Code);
- providing for charitable assistance in the form of endowments (section 170.7.5 of the Tax Code);
- exemption of free-of-charge transfer of securities by way of endowments from VAT (section 197.1.15 of the Tax Code).

Now, civil society organisations registered as legal persons can pay 6 national taxes and charges, and the two more in special cases identified in article 9 of the Tax Code, in particular:

- enterprise profit tax;

⁸⁸ Tax Code of Ukraine 2755 dated 2 December 2010, <http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=2755-17>

- personal income tax;
- value added tax;
- initial vehicle registration fee;
- land tax;
- duty;
- excise (in special cases, as importing motor cars into the customs area of Ukraine);
- special forest use charge (when forest resources are used to hold cultural, recreation, travel industry, sports, educational events and do researches).

Since 1 January 2011, CSOs can pay tax charged on real property other than a land plot and will not pay such taxes as advertisement and public service taxes that caused a lot of trouble to these organisations.

The non-profit's status in Ukraine currently exempts an organisation from only enterprise profit tax in general, or tax charged on particular types of income of such organisations. However, the status itself does not give any reliefs on other taxes and charges.

Most civil society organisations in Ukraine having the status of non-profits are not given any reliefs on taxes charged on land or other real property, they are not exempt from value added tax in the event of their receiving goods by way of assistance.

Article 157 of the Tax Code identifies requirements for civil society organisations to be given the status of the non-profit:

- the organisation should be a resident for tax purposes;
- the organisation's statutory aim should not imply profit making;
- assets of the organisation should not be used for the benefit of its individual members;
- in case of liquidation of the organisation, its assets should be transferred to one or more other civil society organisations or go to the budget;
- the statute of the civil society organisation should contain a comprehensive list of activities it engages in;
- exempt incomes should not be used to conduct business⁸⁹.

The status of the non-profit is given to an organisation based on the decision of state tax agencies to put the civil society organisation on the Register of Non-Profit Institutions and Organisations.

It should be noted that the procedure of making a decision on giving the status of a non-profit, similarly to keeping the register of non-profits, is not regulated by the current Tax Code, therefore, these relationships will continue to be regulated by agencies of the State Tax Inspectorate based on provisions issued by them. Therefore, as before, we may still have problems resulting from one-sided interpretation of provisions of applicable legislation by the Inspectorate agencies, not giving the non-profit status or unjustified taking it away, as well as controversies in this respect in courts.

⁸⁹ Round table discussion 'Achievements and perspectives of the reform of charity law', <http://blagozakon.org.ua/?p=907>

To our knowledge, current Law of Ukraine 2460 'On Citizens' Associations' dated 16 June 1992 allows only international or all-Ukraine civil society organisations to establish separate tax-paying subdivisions including those with legal personality. At the same time, the Tax Code requires separate registration of separate subdivisions of civil society organisations for taxes. This raises the question, can such subdivisions get the status of non-profits today?

The status of separate subdivisions of foreign civil society (non-governmental) organisations also remains uncertain. They are non-residents (section 14.1.22 of the Tax Code), which rules out the possibility of their being put on the Register of Non-Profit Institutions and Organisations. Nevertheless, such subdivisions are subject to registration (accreditation or legalisation) in Ukraine. Thus the question of possible application to them of article 157 of the Tax Code saying that the organisation should be a resident for tax purposes remains open.

The Civil Code of Ukraine (article 85) generally requires non-business companies not to pursue making profit to be distributed between members. Provisions of the Civil Code are akin to article 157 of the Tax Code, furthermore, the Tax Code's section 165.1.4 says that any payments to members of governing bodies of civil society organisations, as well as their direct relatives (associated persons), other than money paid for works and services under labour or civil contracts, are taxable.

It should be noted that the Law of Ukraine 'On Citizens' Associations' leaves disposal of the civil society organisation's property exclusively to its chief governing body – general meeting of members or to their representatives (delegates). Should such a body not fix official salaries for members of other governing bodies of the organisation or delegate this capacity to respective bodies (presidium, board, etc.), fixing their salary appears to be doubtful.

As before, contributions by members of civil society organisations are non-taxable provided that they are irreversible, that is, do not imply receiving any goods or services by way of compensation.

Also as before, any activity of civil society organisations aimed at making profit is identified as business and is taxable at the standard rate. The Tax Code enhances the list of community benefit organisations to some extent:

- civil society organisations established in order to deliver rehabilitation, social and sports services to persons (children) with disabilities, provide legal aid, engage in environmental, recreation, amateur sports, cultural, educational and research activities;
- disabled people civil society organisations, associations of disabled people organisations and their local groups set up pursuant to the respective law (Tax Code, section 157.1, paragraph 'b').

Currently, such organisations receive non-profit code 0006, which allows the list of exempt incomes to be enhanced. They do not pay undistributed profit tax.

Instead, civil society organisations given non-profit code 0011 should spend at least 75% of the total annual income by 1 April of the next year. If an organisation with code 0011 spends a lesser percentage of its annual income, this difference becomes its undistributed profit taxable at the standard rate.

Article 157.14 of the Tax Code says that the use of exempt incomes to conduct business is the ground for taking the status of a non-profit away from the civil society organisation.

A ground for taking the status of a non-profit away is also unintended use of assets. Therefore, spending to achieve aims not identified by laws covering civil society organisations or Statutes of such organisations can be considered as unintended use of money pursuant to section 157.14 of the Tax Code. Unintended use of assets can also be deemed to be use by the civil society

organisation of money or other property given for a specific purpose, that consequently can result in the organisation's ceasing to be a non-profit.

In general, these provisions of the Tax Code agree with section 54 of Recommendation CM/Rec(2007)14 that restricts non-governmental organisations' capacity to use property, purchase of which was exempt, for taxable purposes.

Let us see how the Tax Code will influence CSO funding:

Enterprise profit tax

Article 157 of the Tax Code lists incomes for non-profit organisations of each type. Incomes other than those identified by article 157 for non-profits of each type are liable to enterprise profit tax at the standard rate.

The standard rate of enterprise profit tax is 16% (article 151 of the Tax Code, section 151.1). It will be reduced to this level gradually, subject to the Tax Code's Section 20 'Transitional Provisions', paragraph 10, in the following way:

- 25% rate will apply from 1 January to 1 April 2011
- 23% rate will apply from 1 April to 31 December 2011
- 21% rate will apply in 2012
- 19% rate will apply in 2013
- 16% rate will apply since 1 January 2014.

The Tax Code has not brought any significant changes in this tax for civil society organisations.

Charitable contributions and other gifts

These contributions are exempt from income tax in case of civil society organisations given non-profit code 0011, if they come from founders, members or other participants of such organisations (section 157.5 of the Tax Code). Civil society organisations under non-profit code 0006 can receive such contributions from any persons (section 157.3 of the Tax Code).

Passive (investment) incomes

As before, 'passive incomes', that is, those gained by CSOs from the use of their money and other property by other legal or natural persons, are exempt from income tax. These incomes include interest, dividends, insurance payments and royalties. Passive incomes are defined in section 14.1.268 of the Tax Code.

Civil society organisations' having corporate rights (holding chartered capital of enterprises or their shares) is not considered to be business activity, regardless of shares or other property or non-property rights to chartered capital of enterprises.

As before, income from hiring out property will not be placed among passive incomes. The Tax Code identifies income from leasing as interest. Therefore, when a CSO hires out its property under section 14.1.97 of the Tax Code, a part of income (excepting that earned as a compensation for value of object of leasing) is exempt.

Incomes from principal activities

Provisions of the Tax Code give rise to a lot of questions especially in the area of taxation of incomes from principal activities of civil society organisations.

As pointed out above, there is an insurmountable obstacle to independent conduct of business by civil society organisations imposed by article 24 of the Law of Ukraine 'On Citizens' Associations' that allows them to engage in such activities only by establishing separate business entities. The Tax Code neither solves this problem, but imposes a number of obstacles to free engagement in such activities. Pursuant to section 157.15 of the Tax Code, the term 'principal activities' includes activities of civil society organisations identified as principal by respective laws, including delivery of rehabilitation and sports services to persons (children) with disabilities, provision of charitable assistance, educational, cultural, research, social and other similar services for social use, creation of citizens' social self-help systems.

Statutory documents of civil society organisations should list all their activities not aimed at making profit pursuant to provisions of laws regulating their activities. Therefore, this requirement does not enhance the list of principal activities and refers to those expressly allowed by laws covering particular types of civil society organisations.

Pursuant to applicable law, principal activities also include the non-profit's selling goods, performing works and delivering services that promote principles and ideas advocacy and promotion of which was the aim of creation of the non-profit, that are closely linked to its principal activities, provided that a price for such goods, performed works and delivered services is below the standard price or is regulated by the state. This rules out the possibility of earning income, since the standard price is either a contractual price or cost of making the above goods.

Civil society organisations under non-profit code 0011 are subject to additional restrictions, only selling goods and services to their participants (founders or members) being identifiable as their principal activity. Furthermore, the Cabinet of Ministers of Ukraine can impose temporary restrictions on application of provisions of this section to selling particular goods or services by civil society organisations, if such a sale jeopardises or conflicts with competition in the market of the above goods, provided that such a violation is duly evidenced by taxed persons that deliver the similar goods, works, services. However, these authorities over other legal persons are given by laws of Ukraine to the Antimonopoly Committee rather than the Cabinet of Ministers of Ukraine.

Government funding

Alongside subsidies and grants from the central and local budgets, as well as special funds, exemption covers incomes of civil society organisations gained within the framework of technical or charitable, including humanitarian assistance provided to such non-profits under international treaties that were given assent by the Verkhovna Rada of Ukraine.

Incomes from non-principal activities

Legislation has not changed significantly compared to the previous situation, incomes from non-principal activities are taxable as income of civil society organisations: section 157.10 of the Tax Code requires a non-profit earning income from sources other than those specified in sections 157.2-157.9 of the Tax Code to pay income tax identified as a sum of incomes gained from other sources less a sum of costs associated with gaining such incomes, however, not exceeding the sum of such incomes (which is akin to provisions of the previous Law of Ukraine 'On Enterprise Profit Tax').

As calculating a sum of incomes in excess of costs pursuant to section 157.10 of the Tax Code, paragraph one, and estimating sums of taxable income pursuant to paragraph two of this section, depreciation expense is ignored.

Value added tax

Impact of this tax on financial position of civil society organisations is hard to underestimate, since value added tax paid on goods and services purchased by these organisations is

unrecoverable. This provision of the Tax Code took up the baton from provisions of the previous law 'On Value Added Tax'.

The Tax Code says that persons referred to in article 180 of the Tax Code, similarly to requirements of the previous law, need not to register for value added tax (VAT) any more, provided that their income from selling goods and services not exempt from VAT has not exceeded 300,000 hryvnias within last 12 calendar months (section 181.1 of the Tax Code). As can be seen, there are no changes in the value or interpretation of the timeline of selling goods and services by law.

Article 193 of the Tax Code reduces VAT rate from 20% (current rate) to 17% (since 2014) (Tax Code's Section 10 'Transitional Provisions', subsection 2, paragraph 10).

While these changes favour civil society organisations to some extent, there is no further reduction of VAT rate, and exemption covers value of educational and social services delivered by only particular types of institutions (especially, when nonschools provide their pupils and students with paid services in the area of extracurricular education (section 196.1.8 of the Tax Code) which infringes upon the principle of taxation neutrality.

Other taxes civil society organisations can pay

Land tax

Sections 282.1.6 and 282.1.7 of the Tax Code exempt disabled people civil society organisations and their health resorts, recreational and rehabilitation facilities, as well as sports organisations using sport facilities for purposes identified by law from land tax (section 282.1.9 of the Tax Code).

Other civil society organisations pay land tax fixed based on regional/local rates and purpose of land plots.

Tax on real property other than a land plot

Pursuant to section 265.5 of the Tax Code's article 265, premises used by civil society organisations to accommodate natural persons are taxed at the following rates:

- 1) at a rate of 1% of the minimum wage payable on 1 January per square meter of living area of a flat in a block of flats not exceeding 240 square meters
- 2) at a rate of 1% of the minimum wage payable on 1 January per square meter of living area of houses not exceeding 500 square meters
- 3) at a rate of 2.7% of the minimum wage payable on 1 January per square meter of living area of a flat in a block of flats exceeding 240 square meters
- 4) at a rate of 2.7% of the minimum wage payable on 1 January per square meter of living area of houses exceeding 500 square meters.

Pursuant to section 265.2 of the Tax Code, civil society organisations do not pay this tax only on rooms of hostels or family type children care homes owned by them.

Initial vehicle registration fee

In Ukraine, all civil society organisations should pay initial vehicle registration fee (on wheeled vehicles, ships, helicopters, etc.). Applicable laws do not give any registration tax reliefs to civil society organisations.

Duty

Civil society organisations should pay duty in case they import humanitarian or other charitable assistance. Customs Rules currently in force do not give any duty reliefs (except for ambulances).

The Law of Ukraine 'On Humanitarian Assistance' currently in force allows civil society organisations to receive humanitarian assistance without paying duty only based on a special decision of the Cabinet of Ministers of Ukraine's Humanitarian Assistance Commission. Reliefs can also be given on import of vehicles that still account for a significant part of goods received as humanitarian assistance.

Taxation of natural persons donating to civil society organisations

Section 166.3.2 of the Tax Code entitles natural taxpayers to a tax relief on charitable and other nonrepayable contributions to non-profits including civil society organisations.

The tax relief should not exceed 4% of the natural person's total taxable income gained in the preceding year (section 166.3.2 of the Tax Code). This amends previous legislative provisions that gave relief on contributions amounting to minimum two and maximum five per cent of the total taxable income earned within the preceding year and were repeatedly criticised by Ukrainian and international experts.

Contributions can be in the form of money and other property. At the same time, the tax relief does not cover value of services and works delivered by a natural person to a civil society organisation or free-of-charge use of the natural person's property by the civil society organisation.

The amount of tax relief is fixed subject to availability of documentary evidence at the time the natural person submits the person's annual tax return, that is, by 1 April of the year following the reporting one. Entitlement to tax relief is not summed up and carried forward.

Yet it should be noted that restriction of the size of tax relief to the amount of income earned by the natural person as wage is extremely unfavourable to donating natural persons and, consequently, civil society organisations. As before, the provision applicable in Ukraine does not give tax reliefs to citizens that do not earn wages (private entrepreneurs, the retired, students, etc.), as it was in previous laws and remains in the Tax Code.

Taxation of legal persons donating to civil society organisations

Legal persons registered in Ukraine for enterprise profit tax are entitled to incorporate their charitable and other contributions to civil society organisations not exceeding 4% of taxable income earned within the previous year into their total costs (section 138.10.6 of the Tax Code). In contrast to donations by natural persons, the above contributions can be made to civil society organisations both in the form of money or other property and works or services.

In general, cancelling the 'minimum threshold' fixed for donating legal persons at 2% of income gained within the previous year that will apply until 1 April 2011 is a positive change in the Tax Code benefiting especially major enterprises. On the other hand, reduction of the maximum size of donations from 5% to 4% appears to incentivise corporate donors. This becomes especially obvious from the fact that reliefs given in 2009 were used by less than 500 of 700,000 legal persons registered in Ukraine.⁹⁰

Charitable contributions, sponsorship and patronage

As before, the Tax Code does not solve the sponsorship problem, though section 14.1.121 of the Tax Code identifies patronage as a principle activity of non-profit organisations.

⁹⁰ O. Vinnikov, 'Reform of Taxation of Civil society organisations in Ukraine'

Section 138.10.6 of the Tax Code additionally entitles enterprises to incorporate their contributions aimed at protection of cultural heritage and production of national films and other audiovisual products (not exceeding 10% of profit gained within the preceding year) into their total costs.

Targeted government expenditures for the benefit of civil society organisations

The Tax Code does not require the use of part of revenue from certain taxes or privatisation of state-owned property, gaming business, government lotteries, etc. The Tax Code neither has any 'percentage philanthropy' provisions requiring tax agencies to give a part of personal income tax to non-profit organisations identified by the law or donor.

Conclusions

Despite some positive trends marked in the Tax Code, if we look at it from the angle of promotion of CSO activities, so far tax law of Ukraine fails to follow the best European examples. Unfortunately, recommendations as to amending applicable laws remain a hot topic after adoption of the Tax Code of Ukraine.

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69. Socio-legal portal, <http://www.pilga.in.ua/node/763>
70. Round table discussion 'Achievements and perspectives of the reform of charity law', <http://blagozakon.org.ua/?p=907>
71. O. Vinnikov, 'Reform of Taxation of Civil society organisations in Ukraine'

INSTITUTE OF RURAL DEVELOPMENT

Number in the sequence

**RESEARCH OF EXISTING PRACTICES OF GOVERNMENT AND NON-
GOVERNMENT FUNDING OF CIVIL SOCIETY ORGANISATIONS (CSOs)**

DEAR INTERVIEWER,

GREET THE RESPONDENT, WITHOUT ACCENTUATING THE LANGUAGE OF THE
GREETING, IN ORDER TO FIND OUT IN WHAT LANGUAGE THE RESPONDENT WOULD
LIKE TO SPEAK WITH YOU:

GOOD AFTERNOON (EVENING)

IF THE RESPONDENT ANSWERS THE GREETING:

...in Ukrainian, ASK:

**Скажіть, будь ласка, Вам легше розмовляти
українською мовою, или, может быть, Вам
легче разговаривать на русском языке?**

Ukrainian....1

→ TAKE THE UKRAINIAN QUESTIONNAIRE, MARK THIS ANSWER
AND CONDUCT INTERVIEW IN UKRAINIAN

English.....

→ MARK THE ANSWER AND CONDUCT INTERVIEW IN ENGLISH

однаково, не має значення

all the same, it doesn't matter

**А якою з цих двох мов Ви розмовляєте
більше – українською чи російською?**

Ukrainian3

важко сказати, мабуть однаково4

English.....

don't know, probably, equally.....

→ TAKE THE UKRAINIAN QUESTIONNAIRE,
MARK THE ANSWER AND CONDUCT
INTERVIEW IN UKRAINIAN

→ MARK THE ANSWER AND CONDUCT
INTERVIEW IN ENGLISH

**Which of these two languages do you speak
more – English or Ukrainian?**

Good afternoon, my name is (INTRODUCE YOURSELF). I represent (NAME YOUR ORGANISATION). The Institute of Rural Development is doing a research into funding of civil society organisations. Please spare me a little of your time.

(IF THE RESPONDENT WOULDN'T TALK) *Could I speak with you tomorrow, the day after tomorrow? Thank you for your participation in the interview.*

START OF INTERVIEW ___HR___MIN

INTERVIEW QUESTIONNAIRE

BLOCK 1. TO BEGIN WITH, A FEW QUESTIONS ABOUT YOU PERSONALLY

1. ARE YOU:

1.1. CIVIL SOCIETY DEVELOPMENT EXPERT?

1 - yes 2 - no

Proceed to question 2.

1.2. REPRESENTATIVE OF THE GOVERNMENT?

1 - yes 2 - no

1.2.1. IF YES, PLEASE NAME YOUR TITLE AND INSTITUTION

Proceed to question 2.

1.3. REPRESENTATIVE OF THE BUSINESS/PRIVATE SECTOR?

1 - yes 2 - no

1.3.1. IF YES, PLEASE TELL ME, DID YOU OR YOUR ORGANISATION PROVIDED FUNDING TO CSOs?

1 – yes 2 - no 3 – hard to answer

1.3.1.1. IF YES (YOU FUNDED THEM), PLEASE GIVE YOUR MOTIVATION

1.3.1.2. IF NOT, PLEASE DESCRIBE CONDITIONS UNDER WHICH YOU'D PROVIDE ASSISTANCE TO CSOs

Proceed to question 2.

1.4. REPRESENTATIVE OF A LOCAL AUTHORITY 1 - yes 2 - no

1.4.1. IF YES, PLEASE NAME YOUR TITLE AND INSTITUTION

Proceed to question 2.

1.5. MANAGER OR MEMBER OF A CSO

1 - yes 2 - no

1.5.1. IF YES, PLEASE GIVE:

1.5.1.1. FULL LEGAL NAME OF YOUR ORGANISATION

1.5.1.2. TYPE OF YOUR CIVIL SOCIETY ORGANISATION:

- 1 - charity
- 2 – professional association
- 3 - other

1.5.1.3. NUMBER OF MEMBERS OF YOUR ORGANISATION:

- | | |
|-----|---------|
| 1 - | 1-10 |
| 2 - | 20-50 |
| 3 - | over 50 |

1.5.1.4. STATUS OF YOUR ORGANISATION:

- | | |
|-----|---------------|
| 1 - | local |
| 2 - | all-Ukraine |
| 3 - | international |

1.5.1.5. YOUR ORGANISATION'S BUDGET IN 2009:

- 1 - below 10,000 hryvnias
- 2 - 10,000-50,000 hryvnias
- 3 - 50,000-100,000 hryvnias
- 4 - 100,000-200,000 hryvnias
- 5 - over 200,000 hryvnias

1.5.1.6. SOURCES OF FUNDING IN 2009:

- 1 - state
- 2 - business
- 3 - community
- 4 - international foundations
- 5 - domestic charity foundations
- 6 - membership subscriptions
- 7 - other (please specify)

1.5.1.6.1. _____

BLOCK II. PROBLEMS OF CSO FUNDING BY GOVERNMENT BODIES

2. PLEASE ASSESS THE MAIN PROBLEMS OF THE EXISTING CSO GOVERNMENT FUNDING SYSTEM AND THEIR IMPORTANCE FOR DEVELOPMENT OF CSOs (show the respondent table 2.1-2.8)

	Very important	Important	Unimportant	Hard to answer
2.1. Inadequate government funding	1	2	3	4
2.2. Ineffective use of state funding	1	2	3	4
2.3. Non-transparency and complexity of government procurement processes	1	2	3	4
2.4. Legislative uncertainty of aims and criteria of CSO state funding, government's lacking respective techniques to select competing programmes	1	2	3	4
2.5. Lack of programmes to tender for project funding	1	2	3	4
2.6. Weaknesses in tax reliefs given to CSO funders and CSOs	1	2	3	4
2.7. Other (please specify): _____ _____ _____ _____ _____				
2.8. Other (please specify): _____ _____ _____ _____ _____				

3. 'WHAT, IN YOUR VIEW, SHOULD BE THE CSO STATE FUNDING MODEL? (show the respondent table 3.1-3.8)

	Yes	No	Hard to answer
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3.1. Setting up the National Civil Society Development Foundation	1	2	3
3.2. Predominantly competitive funding of CSO activities	1	2	3
3.3. Possible participation of CSOs of all types in project tenders	1	2	3
3.4. Possible funding to cover administrative costs	1	2	3
3.5. Simplified processes of government procurement of services and works for CSOs	1	2	3
3.6. Other (please specify)			
3.7. Other (please specify)			
3.8. Other (please specify)			

BLOCK III. PROBLEMS OF CSO FUNDING BY LOCAL AUTHORITIES

4. PLEASE ASSESS THE MAIN PROBLEMS OF THE EXISTING CSO LOCAL GOVERNMENT FUNDING SYSTEM (show the respondent table 4.1-4.3)

	Very important	Important	Unimportant	Hard to answer
4.1. Unstable and limited local budget funding	1	2	3	4
4.2. Non-transparency, subjectivity and complexity of project selection process	1	2	3	4
4.3. Other (please specify):				

5. WHAT, IN YOUR VIEW, SHOULD BE THE CSO LOCAL GOVERNMENT FUNDING MODEL? (show the respondent table 5.1-5.5)

	Yes	No	Hard to answer
5.1. Mapping out medium-term (2-3 years) CSO funding programmes	1	2	3
5.2. Inviting non-governmental organisations to open project tender	1	2	3
5.3. Possible participation of CSOs of all types in project tenders	1	2	3
5.4. Possible funding to cover administrative costs	1	2	3
5.5. Other (please specify)			

BLOCK IV. NON-GOVERNMENT CSO FUNDING

6. PLEASE ASSESS THE MAIN PROBLEMS OF THE EXISTING CSO NON-STATE FUNDING SYSTEM AND THEIR IMPORTANCE FOR DEVELOPMENT OF CSOs (show the respondent table 6.1-6.13)

	Very important	Important	Unimportant	Hard to answer
6.1. Inadequate non-government funding	1	2	3	4
6.2. Many civil society organisations not having fundraising activities	1	2	3	4
6.3. Lack of donor motivation	1	2	3	4
6.4. Donors' striving to gain benefits in spite of interests of civil society organisations, local community or society in general	1	2	3	4
6.5. Abstractedness and 'ineffectiveness of legislative provisions that cover gaining income from principal activities of civil society organisation, social entrepreneurship	1	2	3	4
6.6. Weaknesses in tax reliefs given to CSO funders and CSOs	1	2	3	4
6.7. Many small and medium businesses liable to single tax becoming unable to reduce taxes by providing assistance to the non-profit sector	1	2	3	4
6.8. Unprofessional staff of non-governmental organisations	1	2	3	4
6.9. Lack of sponsorship and patronage traditions	1	2	3	4
6.10. Creation of 'unreal' third sector organisations to 'solicit' money, favour particular 'projects' and individuals and so on	1	2	3	4
6.11. Lack of co-ordination among foreign donors	1	2	3	4
6.12. Other (please specify):				
6.13. Other (please specify):				

BLOCK V. PROPOSALS AS TO IMPROVEMENT OF CSO FUNDING

7. WHAT STRATEGIC, INTER ALIA, LEGISLATIVE ACTION, IN YOUR VIEW, IS NEEDED TO CREATE AN EFFECTIVE CSO FUNDING MODEL? (show the respondent table 7.1-7.7)

	Yes	No	Hard to answer
7.1. Development and adoption of the government targeted Civil Society Development Programme	1	2	3
7.2. Annual provision of CSO funding in state budget laws	1	2	3
7.3. Approval of aims and criteria of CSO government funding	1	2	3
7.4. Setting up the National Civil Society Development Foundation	1	2	3
7.5. Other (please specify)			
7.6. Other (please specify)			
7.7. Other (please specify)			

8. WHAT PRIMARY STEPS, INCLUDING THOSE AIMED AT CREATING THE LEGISLATIVE FRAMEWORK, NEED, IN YOUR VIEW, TO BE UNDERTAKEN TO CREATE AN EFFECTIVE CSO FUNDING MODEL? (show the respondent table 8.1-8.7)

	Yes	No	Hard to answer
8.1. Providing common project tendering rules to all executive agencies (approval of the respective methods by resolution of the Cabinet of Ministers)	1	2	3
8.2. Providing all stakeholders with suitable mechanisms of access to procurement related information, enhancing transparency of and ensuring control over activities of government service users (by amending the Provision on Procurement of Goods, Works and Services Using State Money)	1	2	3
8.3. Developing Guidelines on the best practices of state support of CSO activities for executive agencies	1	2	3
8.4. Setting up the National Civil Society Development Foundation	1	2	3
8.5. Other (please specify and explain)			
8.6. Other (please specify and explain)			
8.7. Other (please specify and explain)			

QUESTIONS TO THE INTERVIEWER (TO BE ANSWERED AFTER THE INTERVIEW)

1. DAY/MONTH WHEN THE INTERVIEW IS CONDUCTED: _____ 2010

2. REGION THE INTERVIEW IS CONDUCTED IN:

Kyiv oblast...1 Odesa oblast...2 Donetsk oblast...3

Volyn oblast 4 Poltava oblast.....5 Kyiv.....6

3. THE INTERVIEW WAS CONDUCTED IN:

Urban area....1

Rural area.....2

6. The interviewer's name _____, signature