
NATIONAL FUNDS TO SUPPORT CIVIL SOCIETY ORGANIZATIONS

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I. INTRODUCTION

This paper explores the key strategic and operational questions that arise during the development of funds and foundations that support civil society organizations (CSOs). It provides examples demonstrating how these issues have been addressed by governments around the world, and analysis of the choices that are made at each step in the process, from establishment of the Fund, to funding procedures, to evaluation of its overall institutional strategy.

Specifically, the paper addresses the following topics:

- National Funds in the Overall Scheme for CSO Sustainability
- Goals of a Fund/ Foundation
- Sources of Funding
- Legal Form and Governance
- Management and Other Operational Issues
- Criteria for Funding CSOs
- Funding Procedures
- Reporting and Evaluation

The information in this paper is based on the study of funds from thirteen countries. The countries are Albania, Azerbaijan, Croatia, Hungary, Kazakhstan, Jordan, Poland, South Africa, Turkey, the United Arab Emirates and the United Kingdom. These models provide examples of different aspects of national funds, with due analysis given to the strengths and weaknesses of their different approaches.

II. NATIONAL FUNDS IN THE OVERALL SCHEME OF CSO SUPPORT

Government funding is one part of an effort to establish a well-functioning and mutually beneficial relationship between government and CSOs. Governments primarily support the civil society sector by enacting a favorable legal environment for the establishment, operation, and sustainability of CSOs.¹ Institutionally this encompasses an effective registration body and supervisory authority.

In order to build a larger infrastructure to support civil society, governments may establish separate units, offices or departments which also help institutionalize the cooperation between CSOs and the government (often called “liaison offices”). These departments may be involved with the establishment of a national fund or foundation, but may also expand their activities to the creation of strategies and initiatives that affect the sector as a whole. Governments may also write policy documents, such as programs for cooperation or targeted strategies that outline the core principles of good partnership between the state and CSOs and include commitments related to government funding. Such policy documents were developed, e.g. in the UK or in Hungary by the Government, in Estonia by the Parliament, in Sweden by the Ministry of International Cooperation.²

As part of such a strategy, the government may invest in capacity building for CSOs, e.g., by supporting the provision of training on organizational management or communication; by supporting the creation of networks and experience sharing, or the building of coalitions to promote joint interests of the sector. Furthermore, governments may invest in obtaining and generating more knowledge about the sector, including quantitative and qualitative research, or inclusion of CSO law or CSO management courses in institutions of higher education systems, etc. It is especially important to have an in-depth understanding of the sector for the development of effective, evidence-based policies for its long-term development.

In many countries mechanisms for the participation of CSOs in government and Parliament decision-making are an important part of the infrastructure for civil society. These may include:

- advisory councils assigned to work with Ministries,
- consultative special interest representation bodies (e.g. a panel of CSOs representing pensioners who have the right to be consulted on all legislation affecting their target group);
- public hearings and other methods of consultation; or
- means of ensuring access to information, including internet-based mechanisms, e.g., publishing draft laws on the webpage of the ministries.

In some countries, the government also establishes or provides resources for CSO support centers. These centers provide assistance to CSOs in the form of maintenance of CSO databases, training support, legal aid, publications for CSOs, office infrastructure (e.g. copying and printing) and internet access; as well as mediation between donors and CSOs (e.g., receiving computer or software donations from a company and distributing in among CSOs).

¹ Katerina Hadzi-Miceva and Fabrice Suplisson, “Overview of State Funding Schemes for Civil Society Organizations, European Center for Not-for-Profit Law (ECNL) and COWI A/S (2007), p. 2.

² In the UK this is called “The Compact.” See <http://www.thecompact.org.uk/>. In Estonia it is called “EKAK” (Estonian Civil Society Development Concept). See <http://www.ngo.ee/1030>. To provide an illustration, we have attached as Appendix A, Exhibit 1, a portion of the EKAK.

Establishment of funds or foundations is therefore only one part of a comprehensive infrastructure for the support of civil society. It provides an important source of financing to CSOs, which also rely on their own income, philanthropic initiatives by businesses and individuals, and funding from other donors. Government funding is more likely to achieve its goal of strengthening civil society when it is complemented in the long-term by other means of support and partnership development for CSOs.

An Infrastructure for Civil Society

- *Enabling laws and regulations affecting CSOs*
- *Effective registration and supervision*
- *Point of contact in the government (liaison office)*
- *Policy development on civil society and CSOs (government strategy towards civil society)*
- *Funding support through ministries, government agencies and local governments*
- *Funding support through a dedicated Fund*
- *CSO participation in decision-making (advisory and consultative bodies, public hearings)*
- *Capacity building for the sector (training, networking, coalition building)*
- *Knowledge generation about the sector (research, higher education)*
- *CSO support centers*

In the examples below, governments already had in place initial funding mechanisms, and then built a supportive infrastructure for civil society that included a national fund. The examples are meant to illustrate the importance of a larger supporting infrastructure, whether or not it is developed before or after the establishment of a national fund.

CROATIA'S NATIONAL FOUNDATION FOR CIVIL SOCIETY DEVELOPMENT

In Croatia, the National Foundation for Civil Society Development was established in order to promote and develop the civil society sector.³ Before its establishment in 2003, the Government Office for Associations was charged with distributing funds to CSOs. The establishment of the Foundation marked a shift from a highly centralized system of government financing to CSOs to a more de-centralized one in which multiple stakeholders played a part. While different Ministries remained responsible for funding CSOs in their areas, the Foundation supported grass-roots initiatives that did not fall within the specific area of any particular ministry.

³ Katerina Hadzi-Miceva and Fabrice Suplisson, supra note 1, p. 5.

The National Foundation is one piece in the larger framework connecting civil society and the Croatian government. It fits into a tripartite system of Croatia's "new model,"⁴ which includes the Government Office for Associations, a 2006 *Strategy for Development of Civil Society*, and the Council for the Development of Civil Society, which is a specialized advisory body of the Croatian government. The Council is charged with monitoring, analyzing, and evaluating the financing granted from the state budget, and ensuring compliance with the Code. In addition, the Croatian Parliament adopted a *Code of Good Practice, Standards and Criteria for Providing Financial Assistance to Programs and Projects of Associations* to establish basic standards and principles for granting financial assistance from the state budget to associations.

HUNGARY'S NATIONAL CIVIL FUND

Similarly to the Croatian government, the Hungarian government was already providing funding to CSOs before the establishment of a foundation. It distributed money to CSOs from a "percentage mechanism," by which taxpayer funds were allocated to support CSOs. CSOs could also obtain funding from centralized channels such as individual ministry budgets, grant programs run by ministries, subsidies allocated to social organizations in the state budget, or public foundations, (quasi-governmental grant-making foundations established by Parliament, the national government, or local governments).⁵ The National Civil Fund, supervised by the Department of Social Dialogue in the Ministry of Social Affairs and Labor, was established in 2003 in order to supplement the state support to CSOs that they already received from the existing percentage mechanism.⁶ For the first time, it allowed CSO representatives to become involved in the distribution of the funds.

Prior to the creation of the Fund, the Hungarian government institutionalized its relations with CSOs with the creation of a Department for Civil Relations in 1998. The department develops and coordinates policies affecting the nonprofit sector as a whole. For example, it developed a comprehensive strategy for the support and development of the nonprofit sector adopted by the government in 2003, which was evaluated and renewed in 2007.

THE PROCESS OF ESTABLISHING A FUND/FOUNDATION

Good practice entails participation of and consultation with the beneficiaries in the process of establishment of the Fund. For example the Hungarian Government shared already the draft concept of the National Civil Fund with CSOs; it personally consulted a group of CSO leaders and experts to finalize the draft; and subsequently it held country-wide consultations on the draft law establishing the Fund. Many of the comments and considerations submitted by the CSOs were taken into account in the final draft that was adopted by the Parliament. Another way of consulting future beneficiaries is to conduct a needs assessment among them in the development of the grant programs which helps in matching their needs with government priorities. For example, as the Croatian National Foundation was established, it held several CSO forums and cross-sector working group meetings to discuss the idea for establishment of the Foundation and address CSO funding needs. Such processes are likely to help create support for the Fund among CSOs. CSOs would then

⁴ For more information about the model see Katerina Hadzi-Miceva, "Legal and Institutional Mechanisms for Government-NGO Cooperation in Hungary, Estonia and Croatia," in *Organizacje pozarządowe, Dialog obywatelski, Polityka państwa*, edited by Marek Rymśa, (Institute for Public Affairs, Poland).

⁵ Katerina Hadzi-Miceva and Fabrice Suplisson, supra note 1, pp. 19-21.

⁶ Katerina Hadzi-Miceva, supra note 3, pp. 17-19.

look at the Fund not only as a source of money from the government but as an institution with which they can partner to achieve common goals for the betterment of their country.

III. GOALS OF A FUND / FOUNDATION

The general aim of supporting CSOs can be accomplished in various ways. It is important at the outset to articulate what exactly the fund is intended to accomplish – this will assist in determining strategy and priorities for funding, and will also equip the fund to evaluate its own success in the future.

A. WHAT DOES THE FUND SUPPORT?

A national fund may be established to strengthen the CSO sector as a whole, or support certain projects of CSOs that contribute to priority areas of government policy.

The Fund can serve as an effective instrument to provide support to the infrastructure and development of the CSO sector as a whole. In such cases, the fund would develop grant programs that address lack of capacity in the sector or it may support grant programs that will increase the knowledge base about the sector. For example, these initiatives might include:

- Supporting favorable CSO legislation;
- CSO networks;
- Research on CSOs;
- Projects to increase the level of volunteering;
- Projects supporting IT development among CSOs;
- Support for organizational development across the CSO sector, in e.g., good governance and other accountability and transparency issues;
- Projects supporting cooperation among CSOs, authorities and business companies etc.

In these cases it will not matter whether the grantee CSO works in the area of environment, youth or poverty reduction – what matters is that its work will directly or indirectly contribute to the strengthening of all CSOs. In Hungary, according to the Law on the NCF, 30% of the budget of the Fund is to be dedicated to such grant projects.

If the fund aims primarily to provide support in certain priority areas of government policy, then it will need to focus its grant-making on those priority areas – e.g. women, education, or employment. It may then choose to support institutional development or project work only for those CSOs that work in the priority areas.

The two areas of support are of course not mutually exclusive. Indeed the fund may decide to support priority government areas and in addition, a part of its money will go towards overall CSO sector development (e.g. if it runs a grant program to support women’s CSOs, it may support network building and coalition building efforts among these CSOs, or fundraising and communication training for them). Or vice-versa, the main goal of the fund may be to support CSO sector development but each year it will prioritize some areas to be supported depending on the government’s annual strategy. It is important to clearly determine the proportion of funding dedicated to each goal and key priority area.

Croatia: Mission, Vision and Objectives of the National Foundation for Civil Society Development

The Mission of the National Foundation is to promote and support civil society development in the Republic of Croatia.

The Vision of the National Foundation is to create, through its activities, an active citizenship in the development of a modern, democratic and inclusive society in the Republic of Croatia.

Objectives that the National Foundation wishes to achieve through its activities are as follows:

- *Promoting active citizenship, engagement, and participation in the development of the local community*
- *Strengthening capacities of the civil society*
- *Developing cross-sector cooperation and cooperation among civil society organizations*
- *Increasing public influence and visibility of the activities of civil society organizations*
- *Developing social entrepreneurship and employment in the non-profit sector*
- *Increasing the influence of civil society in the processes of creating public policy.*

National Foundation Annual Report 2009

B. INSTITUTIONAL SUPPORT, PROJECT-BASED SUPPORT, OR BOTH?

The fund may either provide institutional support to CSOs, meaning that CSOs receive funding for needs that are not tied to a specific program (usually related to running and developing the organization), or project-based support, in which CSOs receive funding for a specific project, or both. The majority of funds have chosen to support the specific projects of CSOs, and do not fund their general institutional costs, but examples of both types of funding do exist.

The key reason to provide institutional support is to “invest” in the development of CSOs that can become effective partners to the government in implementing its policies. In many countries the CSO sector is still underdeveloped in terms of its institutional capacity. While some CSOs funded by international organizations may have a good office infrastructure and professional management,

the majority of local CSOs have the ambitions and commitment, but lack the organizational capacity to carry out their missions.

Providing institutional support is also important in an environment where other government and private donors provide mainly project funding. It is very difficult for CSOs – especially smaller ones – to build and maintain effective organizations without some level of “unrestricted” institutional support. This is because most project funding does not take into consideration the institutional needs of CSOs: it does not allow for a sufficient percentage of overhead costs; it does not allow the CSO to build reserves, or to fund organizational activities that are not directly related to the project (e.g. project development and other fundraising expenses, board and management development, strategic planning, or improvement of financial management systems).

Providing project-based support has advantages as well. Project based support can yield specific results in areas in which the government wants to achieve impact, at the same time strengthening CSO experience and ability to deliver services in that area. By supporting multiple projects carried out by CSOs, the Fund can achieve measurable objectives, e.g., in improving living standards or poor communities or increasing employment of disadvantaged groups.

A combination of the two different kinds of support is also possible. For example, a government may set aside a certain amount of funding for a project-proposal process, while allocating the remaining funds to support CSOs through institutional support.

1. INSTITUTIONAL SUPPORT

Institutional support can take three different forms: normative, need-based, and in-kind. In normative support, a norm, or formula is used to determine how much support each applicant will receive, as in the case of the Hungarian National Civil Fund (see below). In need-based support, amounts of money are given to cover specific institutional capacity needs. For example, a grant may give to a CSO the specific funds needed to upgrade its information technology system. The last kind of institutional support, in-kind support, may be given to the CSO in the form of goods or services. In case of services, the Fund will need to create a mechanism for choosing how to provide them.⁷ They may be provided in-house, drawing on government expertise, or they may be contracted out to a service provider. For example, the Fund may commission training to support the development of the institutional capacity of its grantees in, among other things, good governance.

At the same time, institutional support can also be used to invest in particular organizations over time. This practice is followed by the Croatian National Foundation for Civil Society Development. The Foundation asks CSOs to develop organizational development plans (“business plans”) for three years, and submit those with their applications. The plans will include the core activities of the CSO (e.g. in delivering social services) as well as ways in which the CSO would like to improve its services and various aspects of the organization itself (e.g., improve its governance structure, its accountability mechanisms, generate new sources of income, increase its visibility with the public etc.). The application is assessed by professional evaluators and the awards are given for three

⁷ In Jordan, the Vocational Educational Fund exists to develop and fund training programs needed for vocational and technical education and training institutions to improve facilities, provide raw materials, teaching materials and wages for training staff. We have attached, as Appendix B, Exhibit 1, a portion of Jordan’s Regulations for Vocational and Technical Education Support Fund of 2002.

years, thus ensuring that a CSO can really develop a basis for its future sustainability. (See example below.)

CROATIA: NATIONAL FOUNDATION (INSTITUTIONAL SUPPORT AS AN “INVESTMENT”)⁸

The purpose of institutional support is to increase the level of sustainability of CSOs which contribute to the democratization and development of civil society in Croatia through financial and professional support to their stabilization and further organizational and program development. Institutional support represents a specific part of the Grant Giving Program by the National Foundation with the purpose to invest, over a three-year period, into organizational development or stabilization of the work of CSOs registered in the Republic of Croatia.

The tender for awarding institutional support for the stabilization and/or development of an association is the only tender by the National Foundation implemented in two parts. The first part includes the submission of applications by all associations interested in receiving institutional support. The second part of the tender begins with the selection of the highest-ranking associations resulting from the evaluation performed by the Council for Strategic Investment into Civil Society Development. This is followed by an evaluation of program related activities and financial operations in the aforementioned associations, after which the final evaluation and ranking of applications is made.

HUNGARY: NATIONAL CIVIL FUND (NORMATIVE SUPPORT)

Hungary’s National Civil Fund (NCF) is one of the few National Funds that chose as its main goal to provide institutional support to CSOs. According to the law on the NCF, 60% of the Fund’s financial resources must go toward institutional support of CSOs, while 30% will support projects and 10% serves the administration of NCF itself. The institutional support provided to CSOs is largely normative; each applicant may receive up to 30% of its operational expenses, including the salaries of its staff members, calculated on the basis of the previous year.⁹ The Fund also supports research regarding CSOs, training and human resources development in the CSO sector, publications on the sector, and support to promote CSOs.

⁸Annual Report of the National Foundation for Civil Society Development (2009), http://zaklada.civilnodrustvo.hr/upload/File/eng/o_nama/godisnji_izvjestaj_o_radu/godisnji_izvjestaj_09.pdf.

⁹ Nilda Bullain, “Learning Points from the National Civil Fund in Hungary,” ECNL (2008).

This is the table that NCF uses for determining the level of institutional support available for the CSOs.¹⁰

Annual operational expenditure (thousands HUF)	Maximum amount that can be applied for
0 – 500,000	500,000
500,000 – 3,000,000	500,000 + 28% of the amount above 500,000
3,000,000 – 10,000,000	1,200,000 + 25% of the amount above 3,000,000
10,000,000 +	3,000,000 + 20% of the amount above 10,000,000 (but max. 7,000,000)

JORDAN: QUODORAT PROGRAM (IN KIND SUPPORT)

Jordan’s Ministry of Planning and International Cooperation (MOPIC) administers the *Quodorat* Program, which provides approximately 2 million JD in funding to help improve economic conditions in the poorest areas of Jordan. One component of the project provides in kind institutional support to community based organizations (CBOs) in the form of training that aims to build their capacity to engage in local development activities in their geographic areas. CBOs that participate in the trainings may thereafter be eligible to receive grants that are intended to assist them in developing income generating activities to sustain their local development work.

MOPIC outsources the capacity building and grant making program to two large Jordanian CSOs, the Jordan River Foundation and the Noor Hussein Foundation. These foundations were selected by means of a tender, in which MOPIC issued an RFA seeking implementers who could design and carry out the capacity building and grant making programs. The Ministry oversees the work of these partners to ensure that the project is carried out according to its design and is fulfilling its stated objectives.

2. PROJECT SUPPORT

As mentioned above, project support may be granted to support the development of the sector as such or for specific projects within certain government priority areas. In both cases, the fund will need a mechanism for determining what types of projects or activities will be encouraged.

Most commonly, the funds and foundations themselves determine the priorities for funding. So, for example, if the goal of the Fund is to support development of the sector as a whole, it might fund work on reform of tax laws affecting CSOs so as to create more enabling conditions for their sustainability. If the goal is to advance particular government policies, the Fund might determine the priority areas it wants to support, e.g., youth or education. Subsequently, CSOs will be invited to submit specific projects that fit within these areas.

¹⁰ This table is only a technical tool considered in evaluating support; it does not lead to “automatic” support. Other criteria, including transparent reporting on activities and finances, other support available for the CSO, the organizational goals and objectives set by the CSO, and the relevance of the activities of the CSO to the objectives set for the given region (among others) are also considered when making a funding decision.

POLAND: CSO-DRIVEN PROJECT PROPOSALS

The National Fund in Poland gives significant room for CSOs to develop their own proposals. The Polish Civic Initiatives Fund Program supports individual activities “carried out by CSOs.”¹¹ These are defined by the Act on Public Benefit and Volunteer Work, and encompass a wide range of activities; e.g., preserving national traditions and Polish values, promoting and protecting women’s rights, science, education, ecology, animal protection, and public order and safety, among many others. By defining the list of activities so broadly, the Civic Initiatives Fund Program ensures that CSOs are given wide latitude to take initiative and propose projects from which they believe Polish society would benefit.

KAZAKHSTAN: FUNDING SPECIFIC PROJECT AREAS

Kazakhstan’s project-funding model lays out specific areas in which CSOs may submit project proposals. It gives out grants in four areas: social service, scaling up / replication, CSO capacity-building (which gives grants to CSOs to build the capacity of other CSOs), and children and youth welfare system improvement.¹² By defining the area of tasks in which CSOs may propose projects narrowly Kazakhstan’s BOTA Social Services Program controls the sorts of projects that will be awarded in any given funding cycle.

SOUTH AFRICA: FLEXIBLE, MULTI-GRANT PROCESSES

South Africa’s two Funds to support civil society, the National Development Agency (a national fund affiliated with the South African government) and the Southern African Trust (an independent CSO that also provides funding to CSOs) both have flexible approaches to funding programs, and encourage projects in targeted areas, but also leave room for CSO innovation.

The National Development Agency has two procedures for soliciting proposals.¹³ First, it can issue a request for proposals, and the Board of the NDA selects the grantees whose projects will receive funding. Second, it has a Program Formulation procedure, in which the NDA approaches local communities with weak CSO sectors, organizes them, and funds projects within certain core areas. These core areas are food security, local economic development / social entrepreneurship, CSO consortia and networks for policy and advocacy for the poor, and capacity building for CSOs. The second procedure is thus an NDA-driven approach to grant funding, which targets specific communities and advances certain government priorities for the sector; the first procedure is a more traditional form of soliciting project proposals, and allows for more CSO input into the type of projects they wish to pursue.

The Southern African Trust, an independent CSO that funds specific projects of other CSOs, also has a multi-track grant-giving process.¹⁴ It has three processes by which it gives grants: first, through solicited proposals, which consists of both an open call for proposals to all CSOs, and a closed call for proposals exclusively from certain organizations. 85% of the Trust’s budget is allocated to funding these solicited proposals. Second, the Trust sets aside 10% of its budget for unsolicited proposals that it receives from CSOs throughout the year. Lastly, the Trust reserves 5% or more of

¹¹ <http://www.pozytek.gov.pl/Public,Benefit,and,Volunteer,Work,Act,567.htm>.

¹² <http://botafoundation.org.kz/?en=1>.

¹³ 1998 SA Welfare and Pensions 108, <http://www.nda.org.za/>.

¹⁴ http://www.southernafricantrust.org/grants_policy.html.

its overall budget for unexpected situations, if, for example, a project needs more funding than anticipated.

JORDAN: MINISTRIES OF ENVIRONMENT AND POLITICAL DEVELOPMENT

Two funds administered by Jordanian government ministries also provide examples of project based support. The Ministry of the Environment is in the early stages of developing a fund for the environment. This fund will provide 50% of its support to the National Program's priorities in the area of the environment (both those carried out directly by the Ministry and through its implementing partners); while the remaining 50% will provide grants and loans for projects proposed by applicants. The Fund will also provide institutional support to applicants for their expenses in, e.g., fundraising or administration.

The Ministry of Political Development administers a fund financed by the European Union through which it aims to advance a strategic partnership with CSOs to increase citizen participation in sustainable development. One component of the fund provides grants to youth organizations to build networks between European and Jordanian youth. Beginning in June 2009, the program also provides support through an EU grant for projects to improve public participation in government decision making. This fund is disbursed through a competitive tender in which CSOs apply for project funding.

In sum, a successful mechanism for project support may include one or more of the following:

- Pre-determined areas (e.g., to complement government policy initiatives) in which the Fund will support CSOs, which are either:
 - Narrowly defined or few in number to focus the Fund's support to certain areas and thus achieve greater impact in those areas;
 - Broadly defined, to allow for CSO initiative and innovation in project proposals;
- Clearly outlined criteria and procedures for selection and evaluation of the projects; and
- A procedure for the Fund to specifically target weak CSOs.

C. ONE-YEAR OR MULTI-YEAR SUPPORT?

The Fund may provide institutional or project-based grants for one year, for multiple years, or both. The advantage of providing one year grants is that it allows many CSOs to compete for grants in each annual funding cycle, keeping the process open for new proposals. It also allows the Fund to free up funds for a series of new proposals each year.

Multi-year grants may, on the other hand, allow for longer projects that may promote more long-lasting results and development of the sector. Most often, social problems have deeply rooted causes that can only be addressed in the long-term. To achieve real and lasting impact, a multi-year approach is required on part of the government. In the same way that government programs are designed for several years, grant funding programs are best planned for a longer cycle (e.g. 3-5 years).

CSOs that receive multi-year grants will benefit from reduced costs, because they will only have to pay the startup costs of their project one time, and may thereafter focus on its implementation over a period of year. Moreover, multi-year funding is helpful to CSOs because it allows them to focus on

their work and programs and spend less energy fundraising. One disadvantage of multi-year funding is that it may commit the Fund to supporting a project for a longer period even if the results are not as expected. In the case of multi-year grants especially, the Fund should implement clear procedures for suspending payment if a CSO fails to perform.

If the treasury regulations allow, the Fund may also choose to dedicate a portion of its funding to support short-term projects, while another portion could be directed towards funding a few targeted multi-year projects in key areas for change.

D. TYPES OF SUPPORT PROVIDED

The Fund may offer CSOs either financial support or in-kind support. Most national funds elect to give financial support to CSOs, usually in the form of grants. A grant is a type of financial assistance awarded for the activities of the CSO as specified in an approved grant proposal. For instance, a national fund may award a \$2000 grant to an organization for its development of an educational summer program for children of disadvantaged backgrounds.

In-kind support is given to the CSO in the form of goods or services, such as computers, software or training in a certain capacity. As explained in the section above on Institutional Support, if services are to be provided, the Fund will need to determine a mechanism for providing them.

One type of in-kind support is the provision of awards and acknowledgements. For example, the Croatia National Foundation gives awards every year for the development of volunteering, acknowledging schools that excel in organizing volunteer programs. It also provides an award called “Better together” to local governments that develop good cooperation with civil society.¹⁵

An additional question to be considered is whether the Fund will require CSOs to raise a portion of the project costs (called “cost share” or “matching funds.” It is not uncommon for a donor (whether government or a private funder) to require that CSOs raise cost share, usually between 10% and 20% of the total funds required. CSOs receiving support from the Fund are galvanized to raise money or act on their own behalf, and this assures that there is support for the activity beyond the resources of the Fund. The interest of more than one donor may contribute to longer term sustainability of the project activity. It is important for the matching formula to be realistic and set out attainable goals for CSOs.

¹⁵ Annual report of the National Foundation for Civil Society Development, 2009, http://zaklada.civilnodrustvo.hr/upload/File/eng/o_nama/godisnji_izvjestaj_o_radu/godisnji_izvjestaj_09.pdf.

IV. SOURCES OF FUNDING

A stable source of funding is essential to the sustainability of a fund or foundation. Depending on the objectives of a government and the amount of money it is willing to commit to the Fund, the Fund may receive money from one or multiple sources. Key sources of funding that have been used by other countries include a budgetary commitment from the national government's budget, privatization proceeds in which a portion of income is dedicated to the fund from privatization projects, proceeds from the lottery or other games of chance, and private funding that is either used to complement government funding, or distributed through a quasi-governmental organization that receives funding from private sources.

A. BUDGETARY COMMITMENT

Many countries have allotted a predetermined amount of the state budget to their Fund to support CSOs. The advantages of a commitment of this type is that the national government may determine in each budgetary cycle how much funding it is willing to commit in its support to civil society. On the other hand, without proper safeguards, changing political priorities may put the Fund at risk of a fluctuating amount of funding, which can undermine the sustainability and long-term success of the Fund.

ALBANIA: CIVIL SOCIETY SUPPORT AGENCY

In Albania, the funding of the Civil Society Support Agency is approved by the Council of Ministers, according to the Law of State Budget. The Council of Ministers approves the number of employees of the Fund, their level of pay, and the amount of expenditure for the administration of the Fund.¹⁶ In its first year, 1 million USD was committed to the Fund. In order to ensure the longevity and growth of the Fund over time, the amount given to the Fund must be the same or greater than the amount given in the previous year.¹⁷

AZERBAIJAN: COUNCIL ON STATE SUPPORT TO NON-GOVERNMENTAL ORGANIZATIONS

Similarly, in Azerbaijan, the Council on State Support to Non-Governmental Organizations is funded with a line item entitled "other expenses" in the national government's budget.¹⁸ The amount of funding increased from year to year, with the government allocating a larger sum to the Fund in the second and third years of its life than at its inception. Moreover, negotiations are currently under way to possibly include more civil society involvement by empowering the Council, which is the managing board of the Fund, to make the initial proposal on the amount of funding that is needed in the coming year.

Overall, allocating funding from the state budget can be a stable, government- controlled way to generate income for the Fund. Additionally, certain measures can be taken to ensure its success:

- A mechanism for increasing, or at least not decreasing, the amount of funding given to the Fund each year to allow for its continued development.

¹⁶ Law on the Organization and Functioning of the Civil Society Support Agency, Article 15.

¹⁷ *Id.*, Article 16.

¹⁸ Email conversation with Mahammad Guluzade (June 9, 2010).

- Exploring the possibility of allowing CSO demand to inform, at least in part, the amount of funding that should be provided to the Fund.

B. PRIVATIZATION PROCEEDS¹⁹

The distribution of privatization proceeds to foundations was introduced in the Czech Republic as a result of the privatization of state-run enterprises. The Czech Government allocated 1% of these privatization proceeds to a Foundation Investment Fund, which then re-distributed the funds to local foundations in the forms of endowments. The purpose of this mechanism was to enhance building of endowments as a secure resource base for CSOs. Foundations must keep the endowment within a certain legally prescribed minimum, but may use the amount above that minimum to pursue investment opportunities to achieve their statutory goals. In 2002, 27 million EUR were distributed to 64 foundations, which at that time represented one-third of all foundations in the country. Following the introduction of this mechanism, the government introduced changes in the legal and tax system to create rules for good management of the endowments and to enhance the ability of foundations to maximize their potential. The amendments introduced a wide range of investment instruments for foundations, they introduced rules for safe investing, the possibility for professional management of endowments by financial institutions, tax-free capital gains, and an easier registration procedure, all allowing them to build capital that can be distributed to CSOs.

C. PROCEEDS FROM LOTTERY AND OTHER GAMES OF CHANCE

Many countries use an alternate source of direct government funding for their national fund: proceeds from the lottery and other games of chance. The funds from lotteries can be distributed directly by the government or its ministries, by other entities (e.g., a board, fund, or trust), by the operators of the lotteries, or lottery proceeds can be distributed to a specific list of beneficiaries prescribed by law.²⁰

The main advantage of channeling proceeds from the lottery to a fund is that it can substantially increase the amount of funding that is available to CSOs.²¹ The lottery is also an advantageous source of funding because it may already exist, and a portion of the funds simply needs to be re-directed to the national fund. At the outset, it is important to make an appropriate assessment of the investment costs versus the amount of money that can be raised for CSOs or good causes.

¹⁹ Katerina Hadzi-Miceva and Nilda Bullain, "A Supportive Financing Framework for Social Economy Organizations," in *The Social Economy – Building Exclusive Economies* (OECD Local Economic and Employment Development (LEED) Programme, 2007).

²⁰ Katerina Hadzi-Miceva-Evans, "Lottery Proceeds as a Tool for Support of Good Causes and Civil Society Organizations – A Fate or a Planned Concept?" ECNL and IPA (draft awaiting publication).

²¹ In Jordan, 10% of the net profits of the Jordanian Benevolent Lottery are allocated to the National Fund for Supporting Disabled People. See Jordan's Disabled Welfare Law, Article 15. To provide an illustration, we have attached as Appendix C, Exhibit 1 a portion of Jordan's Disabled Welfare Law.

UNITED KINGDOM: THE NATIONAL LOTTERY DISTRIBUTION FUND AND BIG LOTTERY

In the United Kingdom, the National Lottery Act and the Gambling Act regulate games of chance.²² Of every £1 of revenue that the National Lottery gains, 28p are given to good causes. 50% of these 28p are then allocated for charities, health, education, and environment.

The National Lottery is supervised by the National Lottery Commission, and operated by Camelot PLC, an independent company. Camelot PLC passes the proceeds from the sale of lottery tickets to the National Lottery Distribution Fund (NLDF), which then splits the money between 14 distributors. Each distributor is an organization with specialized knowledge about a certain sector, which conducts its own grant-giving process to eligible CSOs. The distributors may also enter into jointly funded schemes with one another.

In 2006, the Big Lottery Fund²³ was given the power to manage 50% (14p out of every £1) to benefit charities, health, education, and environment. It is a distributor independent of the government, and must give at least 60-70% of the money it receives to the voluntary and community sectors. Additionally, through its own separate BIG fund, it distributes non-lottery money. The BIG Lottery Fund offers multiple grant programs, including large and small grants for organizations and communities that are part of the voluntary and civil sector (VCS) in England, Scotland, and Wales.²⁴

SOUTH AFRICA: NATIONAL LOTTERY DISTRIBUTION FUND

The South African model of a national lottery is similar to the English one: an independent contractor operates the lottery, while a government organization, the National Lotteries Board, manages it.²⁵ 30% of the lottery's revenue is allocated to 5 broad causes through distribution agencies, which are appointed by ministries but independent of the government. One of these agencies is the Charitable Distribution Agency, which is appointed by the Minister of Trade and Industry. The formula for allocating the percentage of funding that will go to each cause is agreed upon by Parliament.

The National Lottery Distribution Fund has faced some criticism for its mechanisms of distributing funding. Among other things, there have been complaints that it lacked transparency in the application process and its processing of applications is inefficient. The Fund distributed only a small portion of the money that it received from Lottery proceeds; as a result, new procedures for the distribution of funds are being formulated. The lessons from South Africa's lottery show the necessity of transparency, accountability, and efficient and effective mechanisms for disbursing the funds.

CROATIA: NATIONAL FOUNDATION FOR CIVIL SOCIETY DEVELOPMENT

Lottery proceeds in Croatia were used as a base to set up the National Foundation for Civil Society Development. The National Foundation was established in 2003 with founding assets of HRK 2 million (approx. 275,000 EUR) and with a constant inflow of funds from the games of chance and from the State Budget. By 2008 the assets of the National Foundation increased to HRK 46 million

²² Id. See also www.lotterygoodcauses.org.uk.

²³ <http://www.biglotteryfund.org.uk>.

²⁴ BIG Lottery Fund 2009 Annual Report, available at: http://www.biglotteryfund.org.uk/annual_report_09.pdf.

²⁵ <http://www.nlb.org.za/nldtf.asp>; see also Dr. Stephen Louw, "Smoke and Mirrors," University of Witwatersrand Department of Political Science, <http://www.sarpn.org.za/documents/d0000032>

(approx. 6.3 million EUR), out of which HRK 43 million (approx. 5.9 million EUR) are allocated from the games of chance.²⁶

D. OTHER FUNDING SOURCES

A fund can also receive money from sources other than government, including private or multilateral donors, fees collected by the government, or even entitlement of a court judgment as shown below.²⁷ In a few countries, quasi-governmental or independent organizations serve the same function as a national fund, in that they are overseen or chaired by members of the government and carry out the disbursement of money to CSOs. Often, they receive funding from places other than the typical sources of government revenue discussed above. Instead, they may solicit donations from bilateral or multilateral donors, corporations and other private entities, or receive money from foundations, or their own earnings.

The advantage of using private sources to complement government funding is that they can increase the level of funding available for CSOs. However, there are also challenges. The interests of government and private sponsors may not be the same. Moreover, in some instances, private donors wish to retain control over the funds that they donate.

KAZAKHSTAN: SOCIAL SERVICES PROGRAM OF THE BOTA FOUNDATION

In Kazakhstan, the Social Services Program of the BOTA Foundation financially supports CSOs in Kazakhstan. Set up by an agreement between the US, the Kazakhstani government, and the Swiss government, the BOTA Foundation receives its funding from an 84 million USD court judgment regarding a Swiss bank account. Overseen by the World Bank, Save the Children, and IREX, the BOTA Foundation oversees the repatriation and ensures the proper use of the funds. Though BOTA Foundation's creation was initially set up through a Decree of the Prime Minister on June 11, 2009, the BOTA Foundation currently functions as a CSO independent of the government.

Though the BOTA Foundation is not a government-operated Fund, and receives its money from an unusual source, it demonstrates that it can be appropriate and useful to channel resources to CSOs from diverse or creative sources.

UNITED ARAB EMIRATES: DUBAI CARES

The leaders of the Gulf States in the Middle East occasionally set up quasi-governmental foundations that aid CSOs or support certain social causes through partnership with international organizations. For example, Dubai Cares was established in 2007 by Sheikh Mohammad Bin Rashid Al Maktoum, the Vice President and Prime Minister of the United Arab Emirates. Its goal is to improve access to primary education for children of developing countries. Dubai Cares receives donations from corporations, social clubs, and individuals; additionally, at the outset, the Sheikh matched other donations with money from his own private funds. Dubai Cares reportedly has 1 billion USD.²⁸ Unlike a National Fund, Dubai Cares does not provide direct funding to CSOs in the

²⁶ Annual Report of the National Foundation for Civil Society Development, 2008

http://zaklada.civilnodrustvo.hr/upload/File/eng/o_nama/godisnji_izvjestaj_o_radu/annual_report_2008.pdf

²⁷ Under Article 9 of Jordan's Environmental Support Fund, organizations can receive money from public, national, and private institutions, as well as Arab, regional and international organizations. We have attached the relevant portion of the Regulation on Environment Protection Fund 2009 as Appendix C Exhibit 2.

²⁸ <http://www.dubaicare.ae/Introduction>

UAE, choosing instead to partner with international organizations such as Care International, Doctors Without Borders, UNICEF, and others.

V. LEGAL FORM AND GOVERNANCE

Jordan's Law on Societies establishes the legal framework for the Fund for the Support of Societies. It is important, in addition, to consider how the Fund's governing bodies will exercise their responsibilities. This entails consideration of the role and involvement of the government in the work of the fund, the functions of the governing bodies of the Fund, possible selection and involvement of CSOs in the governance of the Fund, and reporting, transparency and accountability.

The role and involvement of the government in the work of the fund may include decision-making, composition of governing bodies, and/ or supervision. In most cases, the government chooses to appoint a mixed group of civil society representatives or leaders and public officials to the managing board or council of the Fund.²⁹ However, the degree of control which the government chooses to retain over the management and governance of the Fund as well as the appointment or election of civil society members to its composition differs in each country.

A. THE ROLE OF THE GOVERNMENT AND POSSIBLY CSOS IN THE GOVERNING BODIES OF THE FUND

The government must define the division of responsibilities between the Board and staff of the Fund, and determine what role, if any, it will play in either or both of these groups.³⁰ Generally, the Board provides long-term strategic planning for an organization, or in this case, the National Fund. It approves long-range goals and annual objectives, oversees evaluation of the Fund's services and programs, and is charged with assessing the organization's performance. The staff, on the other hand, is responsible for the everyday operations of the Fund. They run programs and direct their own work, see that expenses stay within the Fund's budget, ensure implementation of Board decisions, prepare performance reports and maintain records, and may prepare a preliminary budget for Board approval.

While the ultimate decision on funding applications lies with the Board, the practice of who in effect conducts the evaluation of CSOs' proposals to the Funds varies. This task can be given to:

- Governing board itself;
- Advisory body;
- Staff; or
- Paid expert evaluators.

The determination of who will evaluate proposals depends on several factors, including, inter alia, the number of proposals or the volume of material to be assessed, the level of expert professional knowledge needed to evaluate effectively the technical aspects of the proposals; the capacity of staff and board; and the image and positioning of the Fund. (If for example the Fund aims to advance an

²⁹ Under Article III of the Albanian Civil Society Support Agency (CSSA), the Council of Ministers chooses five candidates out of the application pool of civil society representatives and nominates them for membership of the Supervisory Board, making sure no two are from the same field and organization. In Hungary, 12 members of the 17 member National Civil Fund Council must be representatives of civil society organizations. See Article 4(2). We have attached the portions of the CSSA Act and Act of National Civil Fund of 2003 as Appendix E Exhibit 1 and 2 respectively.

³⁰ As an example, we have attached as Appendix D, Exhibit 1, the Albanian Law of Civil Society Support Agency (CSSA), which delineates the various organs of the CSSA and sets guidelines for the composition of the Supervisory Board.

image of being a politically neutral, expert-led body then an external advisory board or paid experts may be preferable to the governing board or the staff itself).

One of the questions related to the evaluation or selection committee is whether it should include CSO representatives, and if so, how to appoint or elect them? Participation of CSOs means that there is a representation of people on the committee who know the field, understand the issues and ideally possess political independence. However, participation of CSOs can raise conflict of interest issues, and those have proven hard to avoid; in order to avoid conflict of interest situations some countries, such as Croatia, have adopted specific rules on this matter.³¹ In addition, it is hard to establish criteria for selection of CSO members, as generally the mere fact that the representative works for a CSO does not mean that he or she possess the knowledge required for the particular program. Finally, CSO representatives may lack grant-making experience. Depending on the local context, however, transparent methods to choose the members can be established. For example, in Estonia, an open competition was conducted among the CSOs to apply for board membership, and the decision on the candidates was made by the joint government-CSO committee for the implementation of EKAK, the Estonian Civil Society Development Concept.

Ideally CSO representatives could lend their knowledge of the needs and existing programs in the field to programming and monitoring, but would not be directly involved in grant decision-making (especially those who are otherwise eligible to receive the grants). This is not to say that someone who is a member, leader or board member of a CSO should not sit on any governmental decision-making body; however, as a good practice it is recommended that the organization from which this person hails would be excluded from applying for a grant.³²

For example, the Articles of Association of the Estonian National Foundation state (Art. 3.10.2):

“A member of the supervisory board cannot have personal interest in obtaining the benefits to be distributed by the Foundation. In case of conflict of interests, and also when the question of doing a transaction between a member of the supervisory board and the Foundation or a court dispute against him is discussed, a member of the supervisory board shall not participate in deciding the question and he shall not vote in that question.”

HUNGARY: NATIONAL CIVIL FUND

The National Civil Fund in Hungary is governed by a mix of government and civil society representatives.³³ The Council is entrusted with the general administrative functions of the Fund: it sets priorities for the Fund, allocates its resources, and develops general rules to govern the support of CSOs. Its members consist of two representatives of the Parliamentary Committee on Civil Society, three representatives from the Ministry, and twelve representatives of civil society. Of the twelve civil society representatives, five are elected from national organizations, and the remaining seven are elected on a regional basis.

³¹ In order to avoid conflict of interest issues, in Albania, members of the Supervisory Board or any other organ of the CSSA cannot vote or take part in a decision-making where he, his spouse, adoptee or adopted parent has a financial interest in the matter. See Article 14. We have attached the Albanian Law of Civil Society Support Agency as Appendix D, Exhibit 1.

³² European Center for Not-for-Profit Law (ECNL), “State Funding for NGOs: Principles and Practices in Tendering” (awaiting publication, paper on file with ECNL).

³³ ECNL, “National Civil Fund in Hungary,” 2008.

The Fund's operational decisions regarding concrete grant proposals are made by eleven "colleges." Each college contains between five and eleven members, the majority of whom are civil society representatives elected by CSOs in an electoral system. In the system, CSOs delegate electors to electoral assemblies, with each elector representing one organization. At the assemblies, candidates are nominated by the electors, who may also be candidates themselves. Candidates receiving a majority of votes become members of the colleges and serve a term of three years.

Thus, though the Hungarian government retains decision-making and supervisory powers over the Fund by including its representatives on both the Council and in the Colleges, it has allowed much of the responsibility to pass to representatives of civil society themselves.³⁴

SOUTH AFRICA: NATIONAL DEVELOPMENT AGENCY

The governance of South Africa's Fund is similar to Hungary's, in that it includes a significant role for representatives of CSOs. However, the government has retained a higher degree of oversight of the Fund by increasing the ratio of government representatives to civil society representatives, and giving the Ministry of Social Development the power to appoint the representatives of CSOs.³⁵

The National Development Agency, South Africa's fund to support civil society, is chaired by a Chief Executive Officer. The CEO is appointed by the Minister of Social Development and serves a five-year term. In order to choose the Board to govern the NDA, the Minister establishes a panel consisting of an equal number of State Department representatives and non-governmental experts in the development field. This panel then creates a short list of candidates from CSOs and presents it to the Minister, who also invites nominations for the list in the media and newspapers. Once the panel develops a short list of candidates, the Minister chooses six people. These six civil society representatives chosen by the Minister, in addition to five members of the government who are appointed by the Minister, form the Board of the NDA. Their names must be published within thirty days of their appointment. They serve three-year terms.

The Minister must follow certain guidelines when appointing the Board members: first, the member must represent a broad cross section of South African society, and second, he is advised to pay special attention to the race, gender, disabilities, and geographical spread of the candidates. The law establishing and governing the NDA spells out the procedures for the Board, once it is chosen, to appoint a chairperson of the Board, establish a management committee, and deal with situation of vacancy or resignation if they arise.

TURKEY: SOCIAL ASSISTANCE AND SOLIDARITY INCENTIVE FUND

In Turkey, the National Fund to support CSOs is called the Social Assistance and Solidarity Incentive Fund.³⁶ More decentralized than the Hungarian or South African models, it works through 931 regional affiliates. Each of these affiliates is headed by its own Board of Trustees. In comparison to the governments of South Africa and Hungary, the government of Turkey exerts a relatively high degree of control over these regional Boards.

³⁴ Article 7 of Hungary's Act on National Civil Fund, provided as Appendix E, Exhibit 3, sets numerous guidelines to prevent conflicts of interest. For example, the law prohibits a member of the Council from being a member of the College. Also, the law states that a member of the College cannot participate in decision-making if he/she or his/her close relative is an official or was within three years in the civil organization supported or if the member or close relative would materially benefit from the decisions. See "National Civil Fund in Hungary," ECNL (2008).

³⁵ SA Welfare and Pensions, *supra* at note 14.

³⁶ ECNL, "Assessment of the Legal Framework for Cooperation between the CSOs and the Government in Turkey," (2006).

Each affiliate of the Social Assistance and Solidarity Incentive Fund is headed by the highest official in the province, either a governor or a sub-governor. The Board of Trustees consists mainly of government representatives: the mayor, the municipal accountant, the provincial education manager, the health manager, the agriculture manager, the social services and child welfare manager, and a religious authority affiliated with the government. In addition, neighborhood representatives or CSOs select two to three representatives of CSOs to serve as Trustees. Lastly, CSOs are invited to general assembly meetings of the Fund.

B. TRANSPARENCY AND ACCOUNTABILITY REQUIREMENTS

Certain reporting, transparency, and accountability requirements regarding the overall operations of the Fund need to be ensured to maintain the legitimacy of the Fund. The following issues are addressed when designing requirements to ensure that the fund is run accountably:

- participation of the beneficiaries in programming (needs assessment) and evaluation of the Fund's activity;
- availability of and access to governing regulations and documents (most of the funds publish on their web sites their strategy, bylaws, policies);
- availability of the board meeting dates and minutes of the meetings (the Hungarian NCF always announce when the next meetings will be of its council and colleges, and they make minutes available via internet);
- clear conflict of interest rules;
- to whom does the fund report and availability of the annual report on the Fund's operation;
- availability of contact of key staff (director, possibly program officers) and information on Board members.

It is good practice to determine a term-limit for the Board members. For example, the Hungarian National Civil Fund elects its Council and College representatives for two (2) years; in the Estonian National Foundation for Civil Society board members serve for three (3) years; while board members in the Croatia National Foundation are appointed for four (4) years.

HUNGARY: NATIONAL CIVIL FUND

Hungary's National Civil Fund faced criticism for its lack of protections against conflicts of interest. The National Civil Fund's Board was composed of both civil society and government representatives, and the civil society representatives were also considered eligible to receive funding from the Civil Fund.³⁷ Moreover, no guidelines were developed to prevent these representatives from voting on matters that related to their own self-interest. As a result, CSOs affiliated with the decision-making civil society leaders tended to receive all the funding they applied for, while other CSOs did not. In the end, criticism from society and the Minister prompted the adoption of an internal regulation addressing conflict of interest issues.

³⁷ ECNL, supra at note 33.

VI. MANAGEMENT AND OTHER OPERATIONAL ISSUES

The Fund implements its daily operations through a team directed by one or more persons. The Fund operates based on statutes, articles of association and/or internal rules which prescribe the organizational structure and staffing, the duties and responsibilities of those in key positions, assets, reporting and other aspects of day to day operations.³⁸ Clearly prescribed rules of operation and management will help strengthen and professionalize the work of the Fund.

A. THE FUND MANAGER

The countries examined will usually have one person with the main responsibility for the operations of the Fund, with the title of “Director” or “Manager.” This person usually has a set mandate and can be an ex-officio member of the Governing Board (i.e. he or she may participate in the work of the Board without voting rights). The Manager will usually be hired from the outside through a competition. The Director may have a right to propose items for the agenda of the Board; he or she may also be excluded from participating in the discussions of the Board when these discussions concern his or her own employment.

The key responsibilities of a Director or Manager relate to the following main areas:

- preparing and implementing the decisions of the Board (i.e., developing and ensuring the realization of the grant programs and disbursements);
- devising internal organization policies (usually for approval by the Board, e.g., human resources policies, communication policies);
- representation of the fund (acting on behalf of the Fund, signing contracts and grant agreements);
- public communications (e.g. being available for the media, issuing official communications of the Fund);
- hiring and firing staff of the fund; and
- reporting to the Board (financial reports, results of monitoring and evaluation activities).

Albania Civil Society Support Agency: Executive Director

The Executive Director is appointed with a decision of the Supervisory Board taken with a simple majority of all Board members. Current members of the Supervisory Board and/or debtors of the CSSA, as well as their relatives up to the second level, cannot be appointed as Executive Director.

The selection of the Executive Director can be from among no less than three competitors.

³⁸ We have attached, as examples of statutes outlining fund management, portions of Jordan’s Acts on the Regulation on Environment Protection Fund 2009 and the Regulation of Student Support Fund in Official Jordanian Universities of 2004 as Appendix D, Exhibits 2 and 3, respectively.

The Executive Director administers, oversees and directs the activity of the CSSA and its administration, including the employment and administration of the personnel, in conformity with the law, the statute of the CSSA and the decisions of the Supervisory Board;

The Executive Director can be released from duty when:

a) he/she violates the law or the acts of the CSSA

b) he/she has conflicting interests with the CSSA

c) he/she infringes the reputation of the CSSA

d) he/she is incapable, and has in sequences two negative evaluations of his/her work

All decisions related to discharge of the Director are taken by the Supervisory Board with a simple majority of all Board members.

The new Director should be appointed within 30 days when the position is vacant.

CSSA Statute, Article 16

In Estonia, the Articles of Association of the fund stipulate a management body rather than a single manager. The fund's Management Board may have up to three (3) members and is appointed by the Supervisory Board (the ultimate governing body). The Management Board is required to elect from among its members a Chairman or Manager, who is the key person responsible for the everyday operations of the Foundation.³⁹

The Chairman of the management board of the Foundation (Manager) shall:

1.1.1 Organize management board's activity;

1.1.2 Be responsible for organization of accountancy of the Foundation;

1.1.3 Decide on making expenses necessary for Foundation's activity within the

³⁹ We have attached the remainder of the provisions of the Articles of Association of the National Foundation of Civil Society relating to the duties of the chairman of the management board and the competence of the management board as Appendix F, Exhibit 1. See <http://www.kysk.ee/?s=21>.

scope and subject to budget approved by the supervisory board;

- 1.1.4 Work out and present to the supervisory board for approval the structure of the Foundation, the procedure of electing and employment of salaried workers and concept of salary schedule and remuneration of workers;*
- 1.1.5 Take on job and dismiss the workers of the Foundation by making, changing and terminating employment contracts with them;*
- 1.1.6 Grant powers of attorney for representation of the Foundation;*
- 1.1.7 Attend the supervisory board meetings, unless otherwise decided by the supervisory board.*

B. INTERNAL RULES AND REGULATIONS

As an independent legal person, the Fund has the obligation to develop its internal governance structure. The internal rules and regulations are often approved by the Board as the highest governing body, but may also be issued in the form of a Ministerial Decree (as in the case of the Albanian CSSA).

These rules spell out in detail the organizational structure, including various organs and departments of the Fund, as well as the duties and responsibilities of those in key positions and their relationships. In addition, the rules may address meetings of the board, the use and management of the assets of the Fund, auditing and financial reporting, conflict of interest policies, appeal mechanisms against disputed funding decisions, and procedures and use of assets in case of termination of the Fund.

Albania CSSA Statute Article 20

Conflict of Interest

A member of the Supervisory Board or any other organ of the CSSA, including the personals may not vote or take part in a decision-making, takes part in its administration or has a financial interest in it according to law.

A member of the Supervisory Board or any other organ of the CSSA, are obliged to declare the conflict of interest to Chairperson before the decision-making or voting

period. The Executive Director makes a declaration to the supervisory board.

Personnel of CSSA are obliged to provide signed declaration as to the private interests them and their closest relatives. This declaration is submitted to Executive Director, who take care to prevent this issue. If there is any change or new information they should provide information within 15 calendar days after the change takes place

The Supervisory Board members are obliged to make notice regarding the conflict of interest in the first meeting. Board members cannot take part in discussions and decisions related to persons or entities with which there might be a conflict of interest according the legislation in force.

C. STRUCTURE AND STAFFING OF THE FUND

The organizational structure of the Fund will largely depend on the size of the Fund, the volume of its operations (i.e. how many projects it administers or intends to administer), and its needs. Usually there are two main divisions within the Fund: the programs sections and the finances section. If the Fund is very large, there can be additional departments relating to major programs, as in the case of the Croatian Foundation, which administers so-called “cooperation programs” (co-funding programs run in cooperation with other entities) under a separate department. The Hungarian Civil Fund is organized according to regions and thematic areas and has eleven (11) “colleges” (decentralized grant-making bodies).

To illustrate the differences in size and staffing needs, consider the differences between the Hungarian, Croatian and Estonian Funds.

In Hungary, the National Civil Fund is responsible for distributing 7 billion Hungarian Forints, equivalent to \$32 million USD per year, and it supports between 9,000 and 10,000 CSOs every year. To run an operation of this size, the Fund established eleven decentralized Colleges (regional and thematic grant-making bodies), whose work is supported by a Ministry Secretariat and a designated Implementing Agency. The Council and the Colleges together have 131 members, and each College works out its own funding priorities and guidelines, publishes calls for proposals, and evaluates project proposals. Apart from these bodies, at the Ministerial Secretariat three persons assist the Minister in his work with respect to the activities of the NCF. Furthermore, the Implementing Agency employs nine program officers who are responsible for NCF-related program implementation issues. Apart from the program personnel, administrative staff members also help with the operation of the Fund.

The Croatian National Foundation disbursed 34 million Croatian Kuna (equivalent of \$6.1 million USD in 2009), which supported 354 approved grants including several multi-year commitments. The National Foundation has a Secretary assisting the Director and three managers leading

separate grant-giving, cooperation and communication, and finance departments. This organization chart illustrates:



The Estonian Civil Society Foundation is a younger organization and has a more limited budget. In its first year of operations, 2008, it supported 85 projects with a total of 23 million Estonian kroons, equivalent to \$1.9 million USD. As a smaller organization, it has only five staff members: an Executive Director, Program Manager, Program Coordinator, Chief Accountant and IT Manager.

In the case of the Hungarian and Croatian Foundations, there is a need for at least 15-20 paid staff to support the work of the grant-making body. Although the Hungarian fund supports several thousand CSOs and its budget is about five times that of the Croatian Fund, the number of staff is almost the same.⁴⁰ However, in the Hungarian case there are over 130 people involved in the grant-making and evaluation process, whereas in the case of Croatia, these functions are limited to the Board, which consists of nine members. The staff members of the Estonian Foundation are also not involved in evaluating the proposals themselves.

D. DAY TO DAY OPERATIONS

Finally, the Fund will need to plan for day-to-day operations. Fund managers should consider the following questions:

⁴⁰ The Fund was criticized, however, for understaffing and failing to devote enough attention to individual grant projects.

- How big is the budget of the Fund and how many projects or CSOs does it plan to support?
- Who will evaluate the projects? (i.e., staff, board, paid evaluators?)
- How many program and financial staff will be needed considering the above two questions?
- Is there a need for staff in addition to the program and financial staff (e.g., communication and IT officers)?
- Is there a limit on the administrative costs of the Fund? (e.g. in the case of Hungary, the limit is 10% of the total budget, but the Fund spends only 7% on administration)
- Who will handle the financial transactions? (e.g. in the case of Hungary, the national treasury, not the fund, makes payments and conducts financial audits, so the fund does not need as much capacity in terms of financial management.)

These issues will also help guide the decisions about staffing and management, as well as organizational structure and program support.

VII. CRITERIA FOR FUNDING CSOS

The criteria for funding CSOs are closely related to the goals for which the fund is established. Clear criteria must be developed to govern different stages of the funding process. A determination of eligibility criteria (enabling all or only certain CSOs to apply for funding) is necessary, followed by selection criteria (determining which CSOs from the pool of applicants will be awarded funding). Both eligibility and selection criteria can be used to advance government policies.

Subsequently, systems for rating or evaluating the proposals must be established. At each stage, attention must be given to substantive criteria (having to do with the objectives of the call) as well as procedural criteria (compliance with proper attachment of all relevant documents, etc.) that organizations must meet to receive funding. All these decisions must be made before a call for proposals is issued.

Additionally, in the interest of ensuring transparency, it is important that both the eligibility and selection criteria be easily available to CSOs and the general public at the time of publishing the call for proposals.

A. ELIGIBILITY CRITERIA V. SELECTION CRITERIA

Eligibility criteria determine which CSOs will be allowed to apply for funding from a national fund. They may consist of substantive components, meaning those guided by the topic or objectives of the grant process, and also procedural components, which have to do with meeting technical requirements such as submission of all necessary papers in a timely fashion.⁴¹

Selection criteria, on the other hand, give guidelines to the people charged with deciding which CSOs out of the pool of eligible applicants will be awarded funding. Clarity and precision in the selection criteria will ensure that the members of the committee charged with awarding the grants will make decisions based on objective, previously-decided guidelines. The guidelines may leave some room for discretion, but not so much as to allow the selection process to become infused with personal preference. Different national funds deal with the eligibility and selection criteria in different ways.⁴²

AZERBAIJAN: COUNCIL ON STATE SUPPORT TO CSOS

In Azerbaijan, only registered Azerbaijani organizations may apply to receive funding from the Council on State Support to CSOs.⁴³ This substantive criterion narrows the pool of applicants by requiring the organizations to meet certain requirements before they are allowed to submit a proposal. Moreover, the Azerbaijani Council on State Support to CSOs requires organizations to submit a tax form, a certificate of registration, project plans, and biographies of the staff to be involved in the project with each proposal. This is an example of procedural eligibility criteria: if the

⁴¹ We have attached portions of the 2003 Act on the National Civil Fund in Hungary (see National Civil Fund in Hungary," ECNL 2008) and the Albanian Law on Civil Society Support as examples of eligibility criteria, as Appendix G, Exhibits 1 and 2 respectively.

⁴² We have attached portions of the Albanian Law on Civil Society Support Agency as an example of selection principles, as Appendix G, Exhibit 3.

⁴³ "Regulations on the CSSN under the President of the Republic of Azerbaijan," available at http://www.cssn.gov/az/en/index.php?option=com_content&task=blogcategory&id=25&Itemid=123

organization does not comply with certain procedures of the application process, it will not be eligible for funding.

POLAND: CIVIC INITIATIVES FUND PROGRAM

The Polish Civic Initiatives Fund Program,⁴⁴ for example, outlines certain substantive criteria that will be considered when judging proposals. The Fund will favor those proposals that are, among other things, innovative and guarantee equal opportunity, promote cooperation between sectors, or require collaboration or partnerships with other CSOs. The Fund will also privilege CSOs that were founded in an impoverished area.

CROATIA: NATIONAL FOUNDATION

Croatia's National Foundation, 2006

Sample selection criteria: Our Contribution to the Community, Better Together and Democratization and Civil Society Development

- *The quality of the initiative / project*
- *Direct or indirect benefit for the community and its contribution to the development of civil society*
- *Organizational and human resources for the implementation of the initiative / project*
- *National / regional representation*
- *Real balance between the costs and expected results*
- *Cooperation with other associations/organizations/sectors*
- *Innovation and sustainability of the initiative / project*

JORDAN: MINISTRY OF POLITICAL DEVELOPMENT

One component of the fund administered by Jordan's Ministry of Political Development targets the building of networks of youth organizations. To be eligible to receive funding from this program, an organization must be a registered youth organization. (By way of contrast, the MOPIC's *Quodorat* program targets CBOs, and organizations need not be registered societies in order to be eligible for funding.)

The Ministry of Political Development also develops selection criteria by which it evaluates the proposals it receives in response to its tenders. It uses a point system and assigns points to the concept paper submitted by the applicant, as well as its financial management capabilities, evaluation criteria proposed for the project, and the budget. The more total points a proposal receives, the better. If a proposal receives zero weight on the financial management section, the proposal is removed from consideration, as it is if it fails to meet the eligibility criteria.

⁴⁴ <http://www.pozytek.gov.pl/What.is.FIO.581.htm>

B. ADVANCING GOVERNMENT POLICIES OR PRIORITIES

Government policies or priorities may be advanced by narrowing the substantive eligibility or selection criteria to include CSOs that conduct work or propose projects in areas of government interest.

These programmatic criteria for eligibility are essentially tied to the purpose of the grant and may be defined broadly or narrowly. Usually, the more specific these are, the higher the rate of supported projects will be as only those CSOs that fit the specifics of the program will apply. For example, for the purpose “to promote gender equality,” specific programmatic objectives can be formulated at various levels, for example:

- **Version A.** *“Eligible projects are those that address the problems of women in the workplace”* - a general goal that may include anything from sexual harassment to lower pay to discriminatory employment practices.
- **Version B.** *“Eligible projects are those that aim to reintegrate women into the labor market after maternity leave”* - a specific goal that defines the outcome of the project, leaving room for various initiatives; e.g. training on job-seeking and interviewing, learning of new skills such as IT or marketing, providing a job-exchange service, providing alternative child-care services etc.
- **Version C.** *“Eligible projects are those that provide IT training to women who are seeking to re-enter the labor market”* - a very specific objective that defines not only the subject matter and outcome but even the methodology for achieving the outcome.

Experience suggests that government funding may achieve best results if the project eligibility criteria are defined at the mid-level (as in Version B); i.e. defining the expected outcome but leaving it to the applicants how best this can be achieved. Version A is quite broad so it is likely that there will be more proposals than what the budget can support; in addition since there is no focus provided, it will be more difficult to ensure that projects contribute to the intended overall impact. Version C is, on the other hand too specific and may not effectively address the bigger problem of re-integration of women into the workforce by itself.⁴⁵ Version B is appropriate for the purpose of a grant program in that it focuses on concrete outcomes (related to a government policy) that it wishes to achieve by supporting a number of projects that all aim to accomplish the goal with different methods (often reinforcing each other).⁴⁶

Typical project related criteria, depending on the objectives of the call for proposals may include:

- Target groups (i.e. specific target beneficiaries define eligibility, i.e. when the project is to support poor families, disabled people, children or unemployed women);
- Geographic scope (e.g. a municipality or region);
- Innovation (e.g. it has to be a project that has not yet been conducted in the country/region/municipality);
- Replication (e.g. it has to be a project that was already once successfully replicated, or that can be replicated or scaled up);

⁴⁵ In cases when the government (e.g. labor authority) sees a clear need for a specific service (in this case, IT training for job-seeking women) it may be more efficient to publish a tender for service contract (as opposed to a grant competition).

⁴⁶ The above description has been taken from ECNL, “State Funding for NGOs: Principles and Practices in Tendering” (awaiting publication, paper on file with ECNL).

- Methodology (e.g. it should be a conference or it cannot be a conference; it should be participatory; it should include an evaluation component etc.); and

Focus theme or cross-cutting approach (e.g. the project has to demonstrate diversity, sustainable development etc.).⁴⁷

AZERBAIJAN: THE COUNCIL ON STATE SUPPORT TO CSOS

In Azerbaijan, the Council on State Support to CSOs⁴⁸ gives an advantage in the selection process to projects in 15 areas of work, including but not limited to human rights and democracy, support to regional CSO initiatives, and support to refugees and internationally displaced persons. By narrowing the selection criteria, but not the eligibility criteria, the Council is able to receive proposals for projects from many different CSOs that work both within and outside of the government’s preferred areas, and may choose to fund noteworthy projects outside of its 15 chosen realms. At the same time, the Council retains the power to favor those projects that are in line with preferred government objectives.

KAZAKHSTAN: SOCIAL SERVICES PROGRAM OF THE BOTA FOUNDATION

The BOTA Foundation in Kazakhstan, on the other hand, advances its goal of improving the lives of children and families by narrowing the eligibility criteria of organizations.⁴⁹ It calls for applications that assist poor children and youth in four areas: improving access to pre-school development, promoting youth opportunities and prevention of risk behaviors, and assisting children and youth that are in difficult life situations. By constricting the eligibility criteria, the BOTA Foundation narrows from the outset what type of proposals it will read.

C. SYSTEMS FOR EVALUATING / RATING PROPOSALS

A clear, step-by-step system for evaluating and rating proposals is crucial to an unbiased, legitimate, and successful selection process.

CROATIA: NATIONAL FOUNDATION

For example, the National Foundation in Croatia uses the following 3-step decision-making process:⁵⁰

1. **Verification** that the formal requirements set in the tender have been met.
2. **Quality assessment** of the application by the Program Committee, which is a collegial body of 5 experts.
3. **Decision-making** on grant approval taken by the Management Board of the Foundation. If the Board does not agree with a grant approval made by the Program Committee, the latter is asked to reconsider the proposal. In this case, the procedure for allocating the grant is repeated.

⁴⁷ Id.

⁴⁸ “Regulations on the CSSN under the President of the Republic of Azerbaijan,” available at http://www.cssn.gov/az/en/index.php?option=com_content&task=blogcategory&id=25&Itemid=123

⁴⁹ <http://botafoundation.org.kz/?en=1>.

⁵⁰ Katerina Hadzi-Miceva, supra at note 3, p. 10.

The verification process can be achieved through a checklist to make sure that the application meets the eligibility criteria. The Program Committee of the National Foundation proceeds with the quality assessment process by using evaluation grids that guide the CSOs and the evaluators in the process of evaluating the grants. Importantly, the rating system must be matched with the selection criteria. Usually the points (e.g. on a scale 1-10) are given for each criteria and either averaged or aggregated for each proposal. This process leads to a numerical order of the proposals, which then can be discussed and finalized at the evaluation committee meeting.

On the other hand, sometimes an “analytical” approach can also be used, whereby there are only a set of more general criteria (e.g. do the activities of the project correspond to the objectives of the call?) and evaluators submit a written assessment of the proposal together with their recommendation whether to support the project or not. This method might be used when it would be hard to establish more formal criteria, when funding, e.g., innovative new projects, where the idea is the most important element; or small rural organizations that may not have the capacity to fill out an application form full of “jargon” (e.g. objectives, target groups, outcomes...). As the below example from Estonia illustrates, the Fund may use both types of evaluation mechanisms. In the example, the standard “open calls” are evaluated based on a set of criteria previously approved by the Director, while the “Good Idea” projects are evaluated “analytically” based on general guidance provided in the regulation.

Estonia National Foundation: Evaluation by Experts

Excerpt from the document: Procedures for announcing open calls, proceeding applications and „Good Idea” projects, disclosing and monitoring the implementation of the grant

Article 4.3. Content evaluation

4.3.1. The application will be eliminated from the contest during the content evaluation in case at least two experts find the application not to be in conformity with the goals of the open call (evaluation table will include rating “0”).

4.3.2. The experts will evaluate the applications:

- In case of open calls the NFCS’ open call evaluation criteria approved by the Executive Director of NFCS;*
- In case of “Good Idea” projects analytic approach will be applied; project analysis will be formalized and recommendations to the implementer of the project and NFCS’ Supervisory Board for financing the project will be provided.*

Previous activities of the applicant and project implementation capacity, application's conformity with the open call's terms and conditions, content, correspondence of the activities and budget with the goals of the open call, goal orientation and thoroughness and clear connection to the budget, clear definition of results in the application, result-oriented approach and sustainability of project, openness to partnership and cooperation with public authorities, business organizations or other non-profit organizations or foundations will be assessed.

4.3.3. Experts use evaluation tables to assess the projects and present them to the NFCS bureau. Evaluation tables, summaries of them and protocols of the working meetings of experts are in-house documents and are not for disclosure.

4.3.4. Experts reserve the right to make proposals for financing a project on certain conditions (reducing or leaving out activities and/or expenses etc.). A proposal for financing project on certain conditions will be submitted by the NFCS bureau to the applicant and in case the applicant accepts these terms improved application form and budget is to be submitted by the applicant. The financing decision will be made on the basis of updated application and budget. Should the applicant not accept the proposals of the experts the primary project together with a justification of disagreement and proposals from the experts will be submitted to the Supervisory board for a decision.

4.3.5. The work of NFCS' experts is organized, coordinated and minutes are kept by the Program Manager of NFCS together with the Program Coordinator.

4.3.6. Ranking evaluation results of the applications which are signed by the experts and justifications are presented to NFCS Supervisory Board who will make the final decision concerning projects to be supported and grants to be allocated.

D. HOW TO ENSURE GEOGRAPHIC DIVERSITY?

The Hungarian NCF has a decentralized system that allocates a certain portion of the funds to each college; 6 colleges represent 6 regions of the country and one represents national level (country-wide) organizations. In other words, the NCF determines how much of its funding should go towards supporting CSOs in each of the 6 regions of the country as well as those CSOs that work at a

national level. The calculation was initially made based on the number of CSOs registered in each region and nationally, since the aim of the support was to strengthen already existing CSOs around the country. Over the years, the method of allocation has become more sophisticated, e.g. it considers also the level of income of CSOs or the ratio of CSOs to the total population in a given region.

The principles of this system can also be applied to a Fund which does not have a decentralized system of colleges. The key principles are:

- determining the need for geographic diversity based on clear criteria
- determining the proportion of resources allocated to each region (as well as to the national level, if applicable) based on the criteria.

For example, if diversity is needed because in some regions there are fewer CSOs operating and there is a need to encourage their formation, more resources may be allocated to regions with fewer CSOs. A simplified method could be to simply say there should be at least one proposal supported from each region.

Importantly, when such determination is made, the Fund needs to ensure proper outreach to the regions so that eligible CSOs learn about the possibility to apply. Funds in different countries often hold an introductory “roadshow” where Fund representatives go to the regions and hold a standard half-day event everywhere to explain to CSOs in person all the requirements for applying.

VIII. FUNDING PROCEDURES

Clear and transparent funding procedures ensure the fair and orderly tender, funding, and completion of a funding program. CSOs in a number of countries complain that they often have difficulties accessing government funding because implementation of the funding mechanisms is not transparent, there are no clear criteria, and the decisions as to who can receive grants are politicized. In addition, the funds lack an effective evaluation and monitoring mechanism to oversee the use of funds and ensure accountability by the CSOs that have received them.⁵¹

In order to ensure that good funding procedures and principles are respected by all of the government bodies which distribute funding (including the national funds), countries have adopted documents that set up a framework for public funding procedures. These documents define and elaborate the principles of funding and detail the specific procedural requirements that must be observed. These documents aim to ensure that the principle requirements are applied across all bodies and agencies of the government which distribute such funds. In addition, they also aim to ensure that the organizations that are applying for funding are informed and understand the framework that guides the funding process.⁵² They can be adopted in different forms and result from different processes. For example, Croatia adopted a “Code of Good Practice, Standards and Criteria for Providing Financial Assistance to Programs and Projects of Associations,” England adopted a “Funding and Procurement: Compact Code of Good Practice,”⁵³ while Hungary adopted the “Law on Use of Public Funds, Transparency and Control of Use of Public Property.”

A. ENSURING ACCOUNTABILITY AND TRANSPARENCY IN THE FUNDING PROCESS

Because many CSOs gain their legitimacy from work that is independent from the government, the process of receiving funding from the government must be done in a transparent and accountable fashion in order to prevent the appearance of collusion between CSOs and the government. Moreover, an open and fair funding process will legitimize the national fund in the eyes of the CSOs and the general public. In turn, this legitimacy will have positive effects on the civil society sector’s work as a whole.

The following features are part of a transparent funding process:

- A process to publicize all relevant information
 - Public calls for proposals;
 - Public notice for evaluation criteria;
 - Clear and sufficient timelines and guidelines for proposal preparation;
 - Public notice of awards.
- Clear rules preventing conflict of interest.

⁵¹Katerina Hadzi-Miceva and Nilda Bullain, “A Supportive Financing Framework for Social Economy Organizations,” in *The Social Economy – Building Exclusive Economies* (OECD Local Economic and Employment Development (LEED) Programme 2007).

⁵² ECNL, supra at note 45.

⁵³ We have attached portions of England’s Compact Code of Good Practice as Appendix H Exhibit 1. The portions outline the vision, structure and goals of the Code, as well as the duties of the Government and voluntary and community sector, and the application process,

B. PUBLICATION OF INFORMATION

Calls for proposals, eligibility and selection criteria, timelines and guidelines for proposal preparation, and notice of awards should all be made openly available to both CSOs and the public. National Funds across countries have ensured publication in different ways; currently, the trend is toward utilizing the Fund's website and national newspapers to give the public access to all relevant materials.

AZERBAIJAN: COUNCIL ON STATE SUPPORT TO CSOS

Azerbaijan's Council on State Support to CSOs (CSSN) attempts to ensure transparency by announcing on its website its competition criteria, selection process, and rules of the competition. In order to make it easy for CSOs to apply for grants, the application forms are also available on the website. Moreover, the website also contains the laws governing the CSSN itself.

UK: BIG LOTTERY FUND

The UK's BIG Lottery publishes information on its website, including the following information:

- Publications, such as reports
- Corporate documents
 - Annual Reports of the organization as a whole, as well as for each grant program
 - Mission and Values statements
 - Corporate Plan
- Descriptions of board and staff members
 - Board Member biographies
 - Senior Management Team biographies
- Events
- Procedures for customer complaints
- Contact Information

The website of the BIG Lottery Fund is intended to be a useful resource in promoting knowledge about and interest in the fund that contributes to the Fund's image as an open, reliable organization.

C. PREVENTING CONFLICTS OF INTEREST

Rules codifying the prevention of the conflict of interest are necessary to maintain legitimacy and a good public image for the Fund. Conflicts of interest that should be considered include a decision-maker's familial relation to or involvement, financial interest, or a political or other significant personal interest in a particular outcome or decision.

ALBANIA: CIVIL SOCIETY SUPPORT AGENCY

For example, the law governing the Albanian Civil Society Support Agency clearly prevents conflicts of interest. The law states that members of the supervisory board or other organs involved in the

supervision or management of the Agency may not vote on a matter in which he or she has a financial interest, or in a case concerning one of his or her relatives.⁵⁴

CROATIA: NATIONAL FOUNDATION FOR CIVIL SOCIETY DEVELOPMENT

Croatia's experience with the funding procedures of the National Foundation for Civil Society Development shows how important rules preventing conflict of interest can be. In its first year, the National Foundation faced criticism about its funding procedures.⁵⁵ Initially, the body that selected the grant recipients was composed of CSO representatives, which raised questions of their impartiality. As a response to the criticism, the National Foundation adopted clearer conflict of interest regulations. Additionally, the National Foundation introduced a register of potential conflict of interest situations. Although it is not a public document, the register may be inspected by authorized bodies upon request.

Croatia National Foundation Statute, Article 19

(1) A member of the Management Board or other body of the Foundation may not vote, or decide on issues in which he/she, his/her marriage partner, his/her adopted parent or child, his/her direct blood relative or indirect relative to the fourth degree, or one related by marriage to the second degree, has material interest, nor on issues related to a legal entity of which he/she is a member, in whose management he/she is involved, or in which he/she has any material interest.

(2) Members of the Management Board or other bodies of the Foundation are obliged to report to the chair of that body of which he/she is a member the conflict of interest in Paragraph 1 of this Article of which he/she is aware or he/she should be aware, at the latest before the vote on the issue in Paragraph 1 of this Article.

D. APPEAL OF DECISION ON GRANT ALLOCATION

Additionally, a mechanism allowing for appeals of decisions should be put into place. Procedures for appeal should include a way for CSOs that have filed a grant application to contest decisions made in an orderly, efficient, and institutionalized way. For example, in Croatia's National Foundation, each organization that has filed an application for a grant may file an appeal within 8 days of being notified of the grant results if it has noticed an omission or procedural deficiency in the way that its application was assessed.⁵⁶

⁵⁴ Law on the Organization and Functioning of the Civil Society Support Agency, Article 14.

⁵⁵ Katerina Hadzi-Miceva, supra at note 3, p. 21.

⁵⁶ Katerina Hadzi-Miceva and Fabrice Supplisson, supra at note 2, p. 10.

E. RULES THAT GOVERN CONTRACTING AND PAYMENTS

The rules that cover the contracting and payments must be developed ahead of time by the fund, and agreed upon by the organizations that have been selected to receive funding. Often, countries will codify these rules in a Compact or other document.⁵⁷ If any changes to the procedures need to be made, they should be discussed at the time of contracting between the members of the National Fund and the CSO before payment is made and before the project has begun.

The United Kingdom has developed a Compact Code of Good Practice, which generally outlines the responsibilities of the government and CSOs to each other before, during, and after the funding process.

Selected information from the UK's Funding and Procurement: Compact Code of Good Practice

- *Payments are made by the government in advance of expenditure "where there is a clear need and where this represents value for money." (Article 11)*
- *Before signing a financial agreement, the government will discuss the risks of the project, agree to a process managing performance, and agree how unspent grant money will be handled (Article 10)*
- *The CSOs undertake to understand the financial procedures and demonstrate why advance funding is needed, if necessary (Article 16)*
- *Processes for monitoring are established before the contract is signed (Article 12)*
- *CSOs must negotiate monitoring and reporting requirements, and ensure that systems are in place to deliver the reporting required (Article 17)*
- *If funding is to be withdrawn, 3 months minimum notice must be given (Article 13)*

⁵⁷ Estonia has codified its rules governing contracting and payments in the Articles of Association of the National Foundation of Civil Society; see <http://www.kysk.ee/?s=21>. We have attached the relevant provisions as Appendix I, Exhibit 1.

IX. REPORTING AND EVALUATION

Mechanisms for reporting and evaluation are crucial to a fund's long-term success in achieving its goal of supporting civil society. Procedures should be put into place to ensure that the Fund is having its intended impact, and if not, to help determine if changes should be made. Evaluation can happen on two levels: (a) at the grant program level, i.e., are projects having the intended impact; and (b) at the level of institutional strategy, i.e., the strategy that determines what grant programs will be conducted over a certain period of time (planning cycle, usually 1-3 years).

A. EVALUATING GRANT PROGRAMS

The purpose of evaluating grant programs is to determine the progress made towards their funding objectives and to improve funding practices in the future. The evaluation of grant programs can be achieved in multiple ways: through evaluation by members of the National Fund, by independent outside experts, or through self-evaluation by the CSOs that have implemented projects or received operational support. When evaluating a grant program it is worth assessing the effects that supported projects had on the beneficiaries. Some funds, like the United Kingdom's Big Lottery Fund, have effectively used a combination of methods for a more accurate and holistic evaluation.

The United Kingdom: Big Lottery Fund, National Well-Being

The evaluation process for the National Well-Being grant program includes the following components:

- *Self-evaluations of the project by the CSOs implementing it, done both during the project and after its completion*
- *Questionnaires: sent to the beneficiaries of the CSOs' projects to assess the impact of the projects. Since the projects were designed to promote healthy eating, physical activity and mental health, questions concerned the eating and activity habits of beneficiaries.*
- *Evaluations done by outside national evaluators*
 - *7 workshops held to inform the CSOs about the evaluation prior to its being conducted*
 - *Ethics Committee established to oversee the research*
 - *Large-scale event was held to launch the evaluation*
 - *2 policy papers were written and 3 newsletters were published with the results (the newsletters target potential grant-applicants, explaining to them how to construct a successful, outcome-oriented project)*

B. REPORTING REQUIREMENTS⁵⁸

Reporting requirements depend on the purpose of the evaluation and vary depending on the grant program. The following minimum requirements are most commonly prescribed:

- in case of longer projects there is usually one or more interim reports and a final report;
- grantees need to submit a narrative and a financial report on each occasion;
- outstanding payments may not be made until such reports are approved;
- (detailed) reporting requirements must be known to the grantee by the time of signing the contract and should be part of the contract.

When drafting the reporting requirements the following issues should be considered in order to ensure effective reporting which delivers the information which is needed to make appropriate evaluation:

- Reporting should focus on outcomes (e.g. asking for targets, achievements, beneficiary evaluation and feedback, learning points etc.) and allow for some flexibility in activities and budget allocations (i.e. through which methods and activities have the targets been met).
- Documentation of outputs and outcomes should not be unnecessarily burdensome.
- It should be clear in which cases the grantee must provide a justification for changes, and in which cases prior approval is needed.
- The level of detail and volume of the report should be proportionate to the funds spent on the project.

C. EVALUATING INSTITUTIONAL STRATEGY

An evaluation of institutional strategy is intended to monitor whether the Fund itself (through its various grant programs and over time) is achieving its desired impact on civil society. For example, if the goal has been to encourage creation and strengthening of CSOs in a certain region, have there been new CSOs formed and are they stronger institutionally? If the goal has been to contribute to resolving a social problem at the country level, how has the Fund contributed to resolving it through its grant programs? If the National Fund is not achieving its intended result, the evaluation strategy should also help to indicate which areas of the National Fund need improvement.⁵⁹

The institutional strategy evaluation would happen along with the planning cycle of the organization, usually every 1-3 years. Methods may include:

- gathering and evaluating statistical data (e.g. how much money was distributed to how many CSOs, how many beneficiaries received services from grantee CSOs etc.);
- assessing outstanding model projects that have a real impact (as well as perhaps less successful projects) and identifying learning points to improve the effectiveness of support;

⁵⁸ ECNL, *supra* at note 45.

⁵⁹ In Estonia, the National Foundation of Civil Society set out principles for evaluating institutional strategy through assessment activities, random monitoring of funded organizations, and a yearly assessment to be conducted by the Board of NFCS; see <http://www.kysk.ee/?s=21>. We have attached portions of the Articles of Association of the National Foundation of Civil Society Act for Estonia as Appendix J, Exhibit 1.

- surveying past and current grantees on how they see the role of the Fund and its achievements; how has the Fund helped them and what do they expect from it in the future;
- talking to CSOs that were not supported or who were critical of the Fund; and
- commissioning independent research to evaluate the impact of the Fund.

Such evaluation can be conducted as part of, or in addition to, the official reporting that the Fund is obliged to undertake on an annual basis (i.e. reporting to the Minister or Cabinet of Ministers).

It may be important to hold an initial discussion on the evaluation of the strategy of the Fund before starting a program cycle in order to make sure that the needed data would be collected throughout the way. For example, if required, grantees should be asked to report on the number of beneficiaries they reached through the projects, so that the data can be aggregated over the years.

Hungary's experience with the National Civil Fund shows why an effective evaluation of institutional strategy is necessary. After the first three years of its operation, the State Audit Agency conducted a thorough evaluation of the effectiveness of the Fund as part of its mandate to supervise effective and efficient use of public money. It noted that *"The use of the operational support provided to CSOs was overall in accordance with the law but did not result in the expansion of the role of civil organizations as drivers of social change."*

"...The minimum amount determined by the Principles of Support did not ensure the strengthening of the organizations; the logic of the system did not allow smaller organizations to break out of their current situation and undergo qualitative development.

The Council determined only formal requirements for the decisions on the applications.... The definition of 'operational costs' was not clear and was interpreted differently by the various bodies of the Council as well as the Treasury and the CSOs.

The minister did not ensure compliance with the Law on use of public funds, transparency and control of use of public property and the related governmental decree, which made it difficult to assess the social benefits of the support provided through the NCF. During the two years of operation the minister did not elaborate performance indicators and normative standards as required by these regulations; therefore the experience and learning points upon which future decisions could be based have been lost.

The use of the operational support provided to CSOs was overall in accordance with the law but did not result in the expansion of the role of civil organizations as

drivers of social change.”

*Excerpts from the Report of the State Audit Office on the first two years of operation
of the National Civil Fund (September, 2006)
unofficial translation*

Following the report by the State Audit Agency, the NCF considered several of the points that were raised (e.g. defined the operational costs more clearly) and implemented new practices in its methodology. Most importantly, it introduced a self-evaluation mechanism that it conducts on a yearly basis to monitor its own effectiveness. In 2009-2010 it also developed a new strategy based on the results of the evaluations. (However, it did not change everything, e.g. the Council still believed that the normative way to determine the rate of support is the fairest methodology to implement institutional support.)

X. CONCLUSIONS AND RECOMMENDATIONS

Government funding of CSOs through a national fund is an important way for the government to support the development of civil society and to strengthen the relationship between the government and CSOs. Ideally, a national fund is part of a larger legal and regulatory framework to support civil society. In addition to enacting favorable legislation to govern the establishment, activities, and sustainability of CSOs, the government may create an office or department to institutionalize cooperation with CSOs, invest in building the capacity of CSOs, create CSO support centers, invest resources in generating knowledge about the public sector, and create mechanisms for the participation of CSOs in government decision-making. As such, the establishment of a national fund is an important step along the path of developing a larger, more comprehensive structure of support from the government to civil society organizations.

Since a national fund frequently aims to strengthen government/CSO relations and address societal needs, an important part of the process of establishing a fund will be to consult its future beneficiaries. Some funds mentioned in this paper have invited CSO input and participation in the creation of the fund; others have consulted them in the development of its grant programs. Government regulators in charge of establishing a national fund should therefore consider formal mechanisms for CSO input at both stages as appropriate.

Funds can be established for many different purposes. It is therefore important to articulate what exactly the fund is intended to accomplish at the outset. Such an approach has been proven to assist existing funds in determining the best operational strategy and priorities for funding as well as evaluating the degree to which they are accomplishing their goals. As part of this process, decisions should be made to determine which organizations will receive support, what kind of support will be given, and to what end. A fund may aim to strengthen the infrastructure and development of the CSO sector as a whole, or it may provide support in certain priority areas that complement government policy. A fund may support institutional capacities (as when CSOs receive funding for needs that are not tied to a project) and/or may provide support to specific projects. Institutional support can be normative (funds allocated for each applicant), need-based (funds given to cover an institutional capacity need), or in-kind (goods or services). In addition, funds for projects or institutional support can be allocated for one or several years. The duration of support provided should be considered as part of the process of conceptualizing the program of the Fund in order to address the implications which arise (e.g., availability of funds, evaluation and monitoring of implementation of longer terms projects).

Reliable and significant sources of funding will contribute to a fund's long-term success. A budgetary commitment in which a predetermined amount of the state budget is set aside for a fund is a stable source that allows the government to plan how much funding it can commit in each budget cycle. Proceeds from the privatization of state-run enterprises may supplement a fund's income, as can proceeds from the lottery and other games of chance. Lastly, alternative sources of funding may also be available to add to a fund which can help achieve the fund's aims and provide support to more programs (e.g., funding from private donors in the country who wish to partner with the fund and support particular programs).

Establishing a clear and strong internal form of governance for a fund will help ensure that the fund functions based on responsible management with good oversight and that decisions of the fund are

made in an apolitical manner in conformity with the Fund's aims and strategy. The governing structure of a fund will delineate the roles of the government, outside experts, and possibly civil society representatives in both the short and long-terms. The government may choose to be involved in the decision-making of a fund, establish the Fund's governing bodies, or serve in a supervisory role. Generally, the Board of a fund provides long-term strategic planning and makes the ultimate decisions regarding funding applications, while the management and staff are responsible for the fund's daily operations.

While the ultimate decision on funding applications lies with the Board, who in conducts the preliminary selection and evaluation of proposals may vary. Most commonly, a preliminary selection committee is composed of the governing board of a fund, the staff of the fund, or paid expert staff evaluators. The selection committee may also include civil society representatives. If the selection committee does include civil society representatives, there should be clear rules about conflicts of interest. Moreover, the relevant expertise of the representatives should be taken into account, to ensure professionalism and accountability in the process. Other measures to provide transparency and accountability in the process should also be adopted to preserve the legitimacy of the process and help ensure more effective and efficient implementation of the funding schemes. Such measures may include: participation of the beneficiaries in programming (needs assessments) and evaluations of the fund's activity; public access to governing regulations and documents, availability of the Board meeting dates and minutes of the meetings, and reporting rules for the fund.

In addition, as an independent entity, the fund should develop internal rules which spell out in detail its organizational structure, including the organs and departments of the fund as well as the duties and responsibilities of those in key positions and their relationships with each other. This will strengthen the everyday operations and management of the fund.

Another important issue is the criteria for deciding which organizations are eligible to apply and which ones will be selected. These criteria should be closely related to the goals for which a fund is established and should consider the different stages of the funding process (e.g., selection of eligible applicants, selection of projects).

Once organizations have applied for grants, certain proposals will be selected to receive funding. An unbiased, step-by-step system for evaluating the proposals will include some level of verification that the proposal meets the requirements, assessment of the proposal's quality, and a mechanism for making decisions about which organizations receive funding.

After grants have been awarded, the funding procedures should ensure the fair tender, funding, and completion of the funding program. To this end, many countries have developed a regulation or a code of good practice to provide a framework. Moreover, publication of all relevant information ensures transparency. In case a decision regarding one or more grants is disputed, there should be a mechanism for organizations to appeal the decision to a different body.

Lastly, mechanisms for reporting and evaluation are crucial to determine the progress that the Fund is making toward achieving its intended objectives and whether or not improvement is necessary in any areas. Reporting and evaluation occurs on two levels: evaluation of the individual programs that a fund has supported, and evaluation of the fund's overall institutional strategy. Evaluation of programs can be conducted by members of the fund, through self-evaluation by CSOs,

or by outside consultants. Different methods exist for evaluation of the institutional strategy; for example, gathering and evaluating statistical data, assessing model projects, surveying grantees, surveying CSOs that were not grantees or are critical of the fund, or assigning evaluation to a different state agency.

