



Concept

for Creating a Legal Reforms Roadmap for Civil Society in Ukraine

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Introduction

Ukrainian civil society is one of the main drivers of reforms in Ukraine. The results of sociological research show the crucial role of civil society organizations in the processes of democratic transformation of Ukraine. However, performing the role of provider of changes requires a proper, enabling legal environment for the civil society operation. Now, the legislation governing the operation of civil society organizations and activists in Ukraine contains many restrictions and does not provide new legal tools to stimulate its development. Therefore, in order to ensure the sustainable development of the civil society, it is necessary to develop a strategy for the development of a legal environment for CSOs for the next five years by developing a legal reforms roadmap. This Roadmap should become the basis for the development of the National Strategy for Civil Society Development 2021-2026.

Context

2018 USAID CSO Sustainability Index has determined the overall CSO sustainability in Ukraine is at the level of evolving sustainability (score - 3.3). Moreover, all dimensions of the CSOSI are in the measures of evolving sustainability. Despite all positive changes in CSO legislation, the Legal Environment was still fixed at an insufficient level of (3.6 in 2018) and CSO financial viability remains the lowest among all dimensions of CSOSI (2018 score was 4.1). According to the 2018 CSOSI Report, the overall CSO sustainability in Ukraine slightly deteriorated in 2018, with negative developments noted in the legal environment and advocacy dimensions. In March 2017, amendments to the Law “On Corruption Prevention”, which obliged representatives of public anti-corruption organizations to submit electronic declarations, came into force. However, in June 2019, the Constitutional Court of Ukraine declared unconstitutional the law on compulsory electronic declaration of income by anti-corruption activists. In addition, Parliament tried to introduce additional financial reporting requirements on CSOs receiving foreign funding. Moreover, over fifty in 2018 and 83 in 2019 activists were physically attacked. CSO advocacy also deteriorated.

During 2017 - 2018, UCIPR with 6 international organizations: Transparency International Anti-Corruption Center (Armenia), MG Consulting LLC (Azerbaijan), Assembly of Pro-Democratic NGOs and Legal Transformation Center (Belarus), Civil Society Institute (Georgia) and Promo-Lex Association (Moldova) supported by the European Center for Not-for-Profit Law, analyzed legislation for civil society in the Eastern Partnership countries and designed the report “CSO Meter: assessing the civil society environment in the Eastern Partnership countries”. According to this report there are still many areas in the Ukrainian legislation for civil society to be improved. For example, state support to CSOs lacks the appropriate mechanisms for selecting CSOs to be provided with a grant and monitoring of the funded projects as well there is no efficient approach to CSO reporting. Therefore, there is a need to introduce a unified competitive approach for CSO funding from the state and local budgets as well as to develop mechanisms for monitoring and evaluation of the project implementation. Moreover, it is important to develop transparent and clear procedures for granting premises to CSOs by the local authorities.

The CSO legal environment in Ukraine does not ensure civil society development in Ukraine. In particular, there are significant tax burdens for charitable and volunteer activities, lack of involvement of CSOs in providing social services at the expense of state and local budgets, lack of online registration of changes to CSO statutory documents and absence of online registration of charitable organizations. Furthermore, there are lack of opportunities for engaging citizens in decision-making at the local level, ongoing harassment and intimidation of civil society activists and lack of investigation of these crimes.



The operation and development of civil society are governed by a high number of laws and regulations, most of which require improvement. Creating Legal Reforms Roadmap for civil society will help systematize existing issues and gaps and identify clear measures to address them. In order to create a favorable legal environment, consistent cooperation of the Government, Parliament and local self-government bodies is essentially important. By joint efforts of civil society and government, Legal Reforms Roadmap developed by CSOs should evolve into the National Strategy for Promoting Civil Society Development 2021-2026. Implementation of this Strategy would bring together the efforts of civil society and public authorities to ensure that all necessary draft laws are developed, adopted and implemented.

The Consortium of Initiative Center to Support Social Action "Ednannia", Ukrainian Center for Independent Political Research (UCIPR) and Centre for Democracy and Rule of Law (CEDEM) is responsible for initiating broad consultations with the civil society sector aimed at developing a detailed legal reform agenda for the civil society development and establishing a CSO coalition for its implementation.



1. Legal Reforms Roadmap for Civil Society

Legal Reforms Roadmap for Civil Society (hereinafter referred to as the Legal Reforms Roadmap) is an analytical, visionary and policy document that will outline the civil sector's vision of reform priorities and improve the legal environment for civil society organizations of Ukraine (hereinafter referred to as CSOs)¹ for 2021-2026.

Title of the document in English - Legal Reforms Roadmap for Civil Society.

Title of the document in Ukrainian - Карта правових реформ для громадянського суспільства.

The Legal Reforms Roadmap is an agenda for creating a favourable legal and administrative environment for the development of civil society in Ukraine.

In the course of the document development, it is planned to engage experts and representatives of CSOs, both at the national and local level, who will analyze the main problems in the area of legal environment and identify the goals and objectives of the legal and institutional reforms that are feasible to carry out in different areas of activity of CSOs in Ukraine during the next five-ten years.

It is planned to engage as many CSOs as possible in the development process. Each thematic section of the Legal Reforms Roadmap will also suggest the decision-making authorities; a list of solutions to fill the gaps in the legal environment; expert representatives of CSOs who will analyse relevant issues and determine tools to address them.

Legal Reforms Roadmap Objectives:

1. Identify the main problems of legislation for CSOs and the practice of its application.
2. Identify necessary changes to the legislation or changes in the practice of its enforcement by government authorities.
3. Bring together the public sector in shaping and advocating for positive changes in the legislation for CSOs.
4. Become a vision-guide for CSOs as part of their collaborative work.

Legal Reforms Roadmap is a document created by CSOs and for CSOs.

The authors expect that this Legal Reforms Roadmap may serve as a basis of the National Strategy for Promoting Civil Society Development in Ukraine 2021-2026.

This document is being developed within the Ukraine Civil Society Sectoral Support Activity, which is implemented by the Initiative Center to Support Social Action "Ednannia" in consortium with Ukrainian Center for Independent Political Research (UCIPR) and Centre for Democracy and Rule of Law (CEDEM) with the generous support of the American people through United States Agency for International Development (USAID).

¹ Within this document, CSO refers to public organizations, charitable organizations, self-organization bodies of the population and creative union.



2. Thematic sections of Legal Reforms Roadmap:

1. Legal status, registration and termination of CSO operation

Potential topics within the section: online registration of all forms of CSOs and introduction of amendments to the CSO statutory documents; registration of a non-profit status; simplification of procedures for the termination of CSO operation, registration of CSOs willing to conduct entrepreneurial activities; banking services for CSOs, issues of beneficial owners of CSOs, problems with CSO registration.

2. Taxation of CSOs and charitable activities

Potential topics within the section: tax exemptions for CSOs, donors/givers and recipients of charitable assistance; procedures for obtaining a non-profit status; new tax benefits for charity; improvement of the 4% tax deduction mechanism; percentage mechanism (philanthropy); charity auction; humanitarian aid; CSO tax reporting; taxation of participants of CSO events.

3. Public financial support to CSOs

Potential topics within the section: contests of CSO projects to be funded from the state and local budgets; online contest for CSO public funding; CSO involvement to the implementation of state and local targeted programs; preferential lease of premises for CSOs; administrative expenditures for CSOs; involvement of CSOs in public procurement; national fund for civil society development; CSO's reporting on project implementation.

4. CSO involvement into providing social services and social entrepreneurship

Potential topics within the section: determining needs of the population in social services; determining the procedure for procuring social services from CSOs; CSO reporting to the customer of the social services; monitoring and evaluation of the quality of social services provided by CSOs; activity of enterprises of CSOs of persons with disabilities; the practice of State Fiscal Service for administering non-profit business activities.

5. Development of volunteer activity

Potential topics within the section: registration of long-term foreign volunteers; state support program for volunteering; taxation of volunteering.

6. Public participation in the formation and implementation of government decisions

Potential topics within the section: problems of legal regulation of procedures for public consultations, public expert evaluation, activities of public councils, appeals of citizens, electronic petitions; issues in local democracy procedures (public hearings, local initiatives, self-organization bodies, participatory budgets, general assembly of residents, etc.).

7. State policy for promoting the development of civil society

Potential topics within the section: national strategy for promoting civil society development; issues in activity of the coordination council for promoting civil society development; issues in government and regional annual plans for the implementation of the National Strategy, etc.

8. Security of activists and CSOs

Potential topics within the section: ensuring the safety of activists, protecting activists from attacks; ensuring CSO protection from the administrative pressure; the impact of government policy on the prevention of money laundering and terrorism financing at CSOs.



3. Structure of Legal Reforms Roadmap

Draft structure of Legal Reforms Roadmap

1. Title page.
2. Preface.
3. List of CSOs that support the Legal Reforms Roadmap.
4. Table of contents.
5. Thematic sections.
6. References.

Draft structure of the thematic section:

Section name: ...

Authors:

options to be discussed:

- Option 1. List of experts involved in the development
- Option 2. List of experts and names of their participating organizations
- Option 3. List of experts and organizations involved in the development and list of organizations that support the outlined guidelines
- Option 4. List of organizations which representatives participated in the development + list of organizations that support it.

Current state

Brief description of the existing legislation. Overall assessment of the quality of the legal field in the relevant area of state regulation. Evaluation of the legislation application.

Problems

Brief description of the major obstacles or gaps in the existing legislation in the relevant thematic section. Problems at the level of legislation enforcement by the authorities.

Solution

Describe the desired outcome that the sector seeks to achieve in the future and the desired parameters of the legal field for CSO development. Identify the main goals of the reform of the legal field.

Tools

List specific legislative improvements needed to achieve the goals. Determine which regulatory act(s) should be adopted or amended and substantive changes that should be made. If necessary, measures can be grouped by the authorities that have to approve them.

Important. The material layout should be as follows: one problem and specific solutions and tools to address it.

For example,

Problem 1.

List of solutions for solving problem 1.

Tools (specific measures) to solve problem 1.

Problem 2.

List of solutions for solving problem 2.

Tools (specific measures) to solve problem 2.

4. Legal Reforms Roadmap Methodology

1. Legal Reforms Roadmap development method and format:

It is planned to engage as many legal experts, other experts and CSOs as possible, as well as representatives of public authorities, in the development of the Legal Reforms Roadmap, in order to build effective communication between the authorities and civil society.

The main objectives of creating the Legal Reforms Roadmap:

1. to analyze the existing problems of the current legislation for CSOs and the practice of its application.
2. to prepare a comprehensive list of new legislative options for rapid civil society development.
3. to provide detailed description of the necessary changes to the legislation or changes in the practice of its implementation by public authorities.
4. to engage representatives of the wider civil society sector into the work on legislative changes for CSOs and their advocacy at the national level.

Creation of the Legal Reforms Roadmap is planned for **8 thematic working groups**.

2. The main steps in creating the Legal Reforms Roadmap:

1. Development of the Legal Reforms Roadmap methodology.
2. Coordinating development of the Legal Reforms Roadmap with the representatives of the civil society sector.
3. Public Presentation of the Concept for Creating a Roadmap for Civil Society Legal Environment Reforms in Ukraine.
4. Work on the meaningful content of the Legal Reforms Roadmap with wider stakeholder engagement.
5. Public presentation of the Legal Reforms Roadmap and discussion of its draft in Kyiv.
6. Public regional discussions on the draft Legal Reforms Roadmap (or online discussions).
7. Improvement of the draft taking into account the proposals and finalization of the document.
8. Public presentation of the final version of the Legal Reforms Roadmap.

Plan of Activities	2020							
	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Public Presentation of the Concept for Creating a Roadmap for Civil Society Legal Environment Reforms in Ukraine	26 Feb							
Work on the meaningful content of the Legal Reforms Roadmap with a wider stakeholder engagement*		Mar-May						
Public presentation and discussion of the draft Legal Reforms Roadmap in Kyiv*					Jun			
Public regional discussions on the draft Legal Reforms Roadmap*					Jun-Jul			
Improvement of the draft taking into account the proposals and finalization of the document					Jun-Aug			
Public presentation of the final version of the Legal Reforms Roadmap								Sep 23



** Events, meetings, discussions that are planned for a specific stage will be held online if quarantine is extended*

3. **Formats** of developing the Legal Reforms Roadmap:

- Working groups: offline and online;

The working groups will be created for developing each section, and they will work online due to the [quarantine introduced](#) in Ukraine on March 11, 2020. The working groups will develop draft sections of the Legal Reforms Roadmap and discuss the draft document online (public comments);

- Public discussions in Kyiv (after quarantine termination);
Public discussions in Kyiv will take place in the format of public discussion of drafts of the Legal Reforms Roadmap sections after the quarantine regime has been lifted.
- Public discussions in the regions (after quarantine termination);
Public discussions in the regions will be held in the format of public discussion of the drafts of the Legal Reforms Roadmap sections in all 24 regions of Ukraine in the format of open engagement of all stakeholders after the quarantine regime has been lifted.
- Individual stakeholder consultations – with government representatives on key issues identified by the working groups;
- Online discussion (public comments) of the draft document.

4. For the purposes of developing and working on the Legal Reforms Roadmap, it is planned to create: **working groups** and **the Legal Reforms Roadmap Coordinating Council**.

4.1. **Working groups**

CEDEM will form 8 thematic working groups to be joined by the CSO representatives and experts, who have expressed a desire to work on the development of the Legal Reforms Roadmap, in accordance with the thematic sections of the Legal Reform Roadmap. The work of the thematic working group will be focused on drafting the relevant section of the Legal Reforms Roadmap.

In order to organize the work of the group in a proper way, the **role of Coordinator and Expert** is to be introduced.

Group Coordinator functions (the list is not exhaustive):

- Arrange meeting, in particular drafting and sending invitations to participants, creating a chat with the participants, publishing information about the meeting on the public Facebook page on the development of the Legal Reforms Roadmap;
- Create a list of participants from an open pool and submitting this list to the appropriate Expert for the approval of participants to be invited;
- For online meetings in the context of quarantine in Ukraine, draft Guidelines for installing the Zoom application for the meeting and creating a single document containing mutual rules for the meeting for the participants;



- Create an event in Google Calendar to hold an online meeting for convenience;
- Communicate with the participants on organizational issues, distribution of necessary materials.

Group Expert functions (the list is not exhaustive):

- Draft a meeting agenda;
- Create a list of potential participants before invitation to the meeting;
- In case the key participants do not respond to the invitation by mail, the Expert or other person having good contact with this potential participant should contact him/her by phone and invite him/her personally;
- Create the Summary of the meeting after its holding;
- Moderate participants' work during the meeting according to the agenda.
- Prepare draft recommendations (guidelines) on the results of the group's work;
- Analyze current legislation and international best practices;
- Conduct in-depth interviews with the relevant civil servants;

The **Group Expert** is responsible for the development of the final text of the guidelines.

The **Group Expert** (or other members of the group) shall present a section of the Legal Reforms Roadmap in the regions, capturing the feedback from the regional CSOs.

Members of the Project Consortium (UCIPR and CEDEM) approve the Group Coordinator and the Group Expert.

The list of potential participants of the working groups drafted by the members of the Project Consortium on the basis of the questionnaires received, desire expressed during public events or as recommended by a member of the Project Consortium. At the next stages, the group has the right to engage new participants on its own. Working group membership is not fixed.

Group operation algorithm

The venue for thematic working group meetings is fixed: Kyiv; during quarantine – online meetings.

Form of attendance by working group participants: physical presence or online (remotely).

Planned number of meetings for one thematic working group: up to 3.

List of issues for discussion and work during meetings of the working group (not exclusive):

1. What are the current issues in the subject of the relevant working group?
2. What legal regulations in the relevant field limit the development of CSOs or the activities of CSOs?
3. What are the current problems with enforcing relevant legislation or providing services to CSOs?
4. What mechanisms of legal regulation are lacking for the proper functioning of CSOs?
5. What are some possible solutions to the problem and what are the best foreign practices to be implemented in Ukraine?
6. What tools are proposed to achieve the result?
7. What are the specific legislative improvement measures required to achieve the set goals?
8. What regulatory act(s) should be adopted or amended, and what substantive changes should be made to improve the legal environment of CSOs?

Key objectives of the working group:



1. to conduct surveys or in-depth interviews with other CSOs, with the representatives of relevant authorities or representatives of international institutions to properly study the problem and make recommendations.
2. to consider and discuss the list of issues stipulated by the topic of the respective group.
3. to use in the work of any available analytical and monitoring documents produced by other institutions.
4. to search for consensus regarding recommendations.
5. to hold consultations with the representatives of relevant authorities regarding recommendations for improving legislation for CSOs.
6. to prepare alternative ways to address existing legislation problems in the draft guidelines (if necessary).
7. to capture and analyze all proposals made during regional consultations.

Legal Reforms Roadmap Initiative Coordinating Council endorses the text of the guidelines of the relevant thematic working group.

4.2. Legal Reforms Roadmap Initiative Coordinating Council

The Consortium members are members of the Legal Reforms Roadmap Initiative Coordinating Council and may involve representatives from other CSOs in its composition.

Key objectives of the Coordinating Council (the list is not exhaustive):

- to assist in coordinating the process of creating the Legal Reforms Roadmap;
- to analyze and approve the methodology for creating the Legal Reforms Roadmap;
- to oversee compliance with the methodology for creating the Legal Reforms Roadmap;
- to approve the final 8 texts of the guidelines of the thematic working groups;
- to send guidelines texts for external review;
- to coordinate and approve the final text of the Legal Reforms Roadmap.

5. Ensuring regional component in the process of creating the Legal Reforms Roadmap:

To ensure the involvement of wider range of CSOs from different parts of Ukraine and to take their views and suggestions into account, it is planned to organize public expert discussions of the draft Legal Reforms Roadmap in the regions.

These public expert discussions are planned to be held with the engagement of the working groups with the participation of the Project Consortium.

Key objectives of the Consortium's representatives and working groups:

- to present the draft Legal Reforms Roadmap;
- to record proposals and comments made by the representatives of local CSOs and authorities;
- to discuss and consider the proposals.

The **goal** of public expert discussions on the draft Legal Reforms Roadmap in the regions is to get feedback from CSOs from all regions of Ukraine.

The algorithm for public expert discussion

Legal Reforms Roadmap public expert discussions venue is not fixed: regions of Ukraine.

Planned number of public expert discussions (organizers - regional coalitions): 8.

Planned number of public expert discussions (organizers - representatives of the Consortium): 8.

Planned number of Skype calls with the representatives of CSOs from the regions where there was no public event: 8.



Public expert discussions are planned to be held in those regions of Ukraine where regional coalitions are established under the Reanimation Package of Reforms (RPR) model. These coalitions will be the key organizers of discussions and holders of the events. Representatives of the Project Consortium will assist in arranging such discussions.

Important!

Coronavirus disease 2019 pandemic (WHO approved name: coronavirus disease 2019, abbreviated name: Covid-2019 or COVID-19; official coronavirus name: SARS-CoV-2]), which broke out in mid-December 2019 in Wuhan, and in early March 2020, the epicenter of the disease moved to Europe. [Quarantine regime](#) has been introduced in Ukraine, including the ban on events involving [more than 10 participants](#) with penalties for non-compliance with the [Law of Ukraine](#) “On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19)”, adopted on March 16, 2020 and effective as of March 17, 2020.

Government guidelines on quarantine regime in Ukraine: where possible, transferring employees of different types of enterprises and organizations to remote work; self-isolation, etc.

Due to the above-described situation with the announcement of a pandemic coronavirus disease in the world with an epicenter in Europe and introduced quarantine in Ukraine, the CEDEM and the UCIPR team changes the process of creating the Legal Reforms Roadmap for the period of restrictive measures, in particular, offline events (i.e. events where participants were to be physically present) are reformatted to online meetings and online discussions. That is, any activities are performed in full in online mode. Communication with the CSO representatives will continue to be carried out through correspondence and communicating in a joint working chat on social media.

Any public events, including those held in the regions, will take place once quarantine restrictions are lifted. Otherwise, such discussions and presentations will be held online.



5. External Communication in the Process of Creating the Legal Reforms Roadmap

For the purpose of covering the progress of developing the Legal Reforms Roadmap for Civil Society, a public Facebook page will be created.

Page title: Legal Reforms Roadmap for Civil Society

Address: <https://www.facebook.com/legalreformscso>

Administrators:

for CEDEM: Valeriia Didyk, CEDEM Project Manager and Halyna Rusanevych, CEDEM PR Manager;

for UCIPR: UCIPR communication manager

Accordingly, messages of the page administrators will be posted, and page members will be allowed to comment on page posts.

Page e-mail: official email for possible feedback, suggestions in documents, other communication with participants.

Gmail, Login: legalreformscso@gmail.com

What will be published on the page and what will be written about:

It will publish dates of working group meetings and provide basic information on work done by the working groups. Through the Facebook page, it will engage CSOs to the development of the Legal Reforms Roadmap as a whole and its individual sections as well as short summaries of working group meetings will be briefly described.

Page information (Facebook page description):

Legal Reforms Roadmap for Civil Society is an analytical, visionary and policy document containing an expert vision of the priorities of reforming and improving the legal environment for the activities of civil society organizations of Ukraine (hereinafter referred to as CSOs) for the period from 2020 to 2025. This document is currently being developed.

Legal Reforms Roadmap Objective

This document is expected to systematize the existing gaps in the legislation for the public sector, work out solutions for their elimination, and become a visionary guide for CSOs in their joint work. The Roadmap may also form the basis of Ukraine's National Strategy for Facilitating Civil Society Development for the coming years.

Here we will inform all stakeholders about the process of developing the document, work done by working groups, inform about the next meetings of working groups dedicated to the development of individual sections of the document, and provide other important information about the process of developing the document, and also about the advocacy for the changes referred to in the document.

You can join the development by filling in the application at http://bit.ly/LEE_RRM

The Legal Reform Roadmap is developed by the Centre for Democracy and Rule of Law (CEDEM) within the Ukrainian Civil Society Sectoral Support Initiative project funded by the United States Agency for International Development (USAID) and implemented by the Initiative Center to Support Social Action "Ednannia" in consortium with the Centre for Democracy and Rule of Law (CEDEM) and Ukrainian Center for Independent Political Research (UCIPR).



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