

A Handbook on Non-State Social Service Delivery Models

A guide for policy makers and practitioners in the CIS region



KAZAKHSTAN

TURKEY

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A Handbook on Non-State Social Service Delivery Models

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This Handbook is authored by Nilda Bullain and Luben Panov, experts of the European Center for Not-for-Profit Law (ECNL). Research assistant: Hanna Asipovich, ECNL.

The European Center for Not-for-Profit Law (ECNL) is a public benefit organization based in Hungary which promotes an enabling policy and legal environment for civil society in Europe and beyond. ECNL shares alternative regulatory models, lessons learned, and experiences across borders; and provides comparative information to assist local partners in adapting or creating new solutions appropriate to their environments. ECNL provides leading expertise to initiatives regarding regulation of civil society, including association and foundation law, public financing, philanthropy, social contracting, public participation and partnerships between the state and civil society, among others. For more information see <http://www.ecnl.org>

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Publication facilitator: Michaela Lednova

Expert review: Pavle Golicin

Peer review group (in alphabetical order): Alla Bakunts, Vesna Bosnjak, Vesna Ciprus, Balazs Horvath, Nick Maddock, Vladimir Mikhailev, Clare Romanik, Victoria Sbuelz, Stephan Schmitt-Degenhardt, Albert Soer

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Nilda Bullain and Luben Panov
European Center for Not-for-profit Law

Michaela Lednova
UNDP Bratislava Regional Centre

Foreword

Financial and economic crises have affected the levels of public spending on social services to varying degrees in all the countries of the CIS region. The need to achieve greater impact in the face of declining resources have pushed many governments to re-examine the ways being used to deliver social services to their citizens. Equal access to social services, integrated service delivery, and the appropriate coordination of relevant sectors and policies, requires a high degree of cooperation among various actors – both state and non-state. For such a collaborative approach to be successful, new legal frameworks, and innovative procedures and skills are needed. Importantly, a change in attitudes and values is required to strengthen cooperation at different levels of government, and between the government and non-government actors. To that end, well-defined partnerships between the state and non-state service providers are of key importance.

The notion of what constitutes the appropriate level and the “right mix” of social services is open to debate. The concept of partnerships between state and non-state actors for services provided is interpreted differently in different contexts, and sometimes is perceived differently by various actors within the same context. One aspect, however, remains undebatable – the governments’ obligation to ensure equal access to services for all citizens in need of such services. In order to meet this obligation, governments in the region increasingly seek to forge partnerships with non-state actors, most often civil society organizations (CSOs). Notwithstanding the dilemmas and various approaches to service delivery, a shift from a welfarist to a social development perspective with regards to the provision of social services is gradually gaining ground across the region. One important element of this shift is the practice of social contracting.

This is the reason why this Handbook focuses on social contracting – financing support to CSOs for the delivery of social services to the most vulnerable and marginalised which should be provided at the community level. It is important to note that social contracting is not an entirely new concept for the countries of the region. Still, there is a scope for cross-fertilisation of practices and a further increase in the transparency and accountability of the actors involved in social contracting and social service delivery.

Based on current practices and detailed case studies in three CIS countries – Armenia, Kazakhstan and Ukraine – this Handbook provides a set of recommendations for decision-makers, taking into account the advantages, as well as the main challenges for transparent social contracting and the provision of people-centred social services. The diverse policy rationales, legal frameworks, and implementation practices prescribed in this Handbook have one thing in common: central governments and local authorities perceive CSOs as key partners in social service delivery.

It needs to be emphasised that CSOs, with their various missions, expertise and outreach capacities can, and should cover a wide spectrum of roles, and therefore should not be reduced to mere service providers. It should also be taken into account that, as much as the local governments are open to citizen participation in the monitoring and provision of social services, their ability to act appropriately may be limited owing to weaknesses in the legal and institutional frameworks, as well as lack of appropriate skills and technical capacities.

Hence, capacity building should underpin the efforts to promote and advance innovative social contracting practices. Finally and most importantly, an enabling environment for civil society action represents a key precondition for closer partnerships between the government and CSOs in social service provision. There is scope for further opening of the space for civil society action in the states of the region, as well as for further strengthening of cooperation between governments and the civil society sector.

We hope that this Handbook will provide information and data that will help policy makers and practitioners to introduce innovative practices for improved and integrated service delivery at the community level. We also hope that it will provide strong incentives for closer working relationships between all the actors working together to achieve the common goal of better access to services and improved wellbeing for all. This is imperative keeping in mind the fast-approaching Millennium Development Goals deadline in 2015.

A handwritten signature in black ink, appearing to read 'Jens Wandel', with a large, sweeping flourish at the end.

*Jens Wandel
Deputy Regional Director & Regional Centre Director*

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Acronyms and Abbreviations

AMD	Armenian Dram
CEDAW	Convention on All Forms of Discrimination against Women
CIS	Commonwealth of Independent States
CSO	Civil Society Organization
CRPD	Convention on the Rights of Persons with Disabilities
CRS	Convention on the Rights of the Child
ECIS	Europe and the Commonwealth of Independent States
ECNL	European Center for Not-for-Profit Law
EUR	Euro
GDP	Gross Domestic Product
HRBA	Human rights based approach
ICESCR	the International Covenant on Economic, Social and Cultural Rights
ICNL	International Center for Not-for-Profit Law
KZT	Kazakh Tenge
NGO	Non-governmental organization
SIF	Social Innovation Fund
UK	the United Kingdom
UAH	Ukrainian Hryvnia
UNDP	United Nations Development Program
USAID	United States Agency for International Development
USD	United States Dollars

Executive Summary

This Handbook was prepared by a team of the European Center for Not-for-Profit Law (ECNL) and is based on field research in three countries – Armenia, Kazakhstan and Ukraine. The team also drew on a comprehensive review of current research and legislation relating to social contracting, with a focus on Europe and the Commonwealth of Independent States (ECIS).

The Handbook focuses on service provision by civil society organizations (CSOs) with public-funding support, largely due to the fact that CSOs represent the main non-state service providers in the CIS region. Therefore, while the Handbook makes reference to all non-state providers in the introduction, it provides case studies and guidance primarily with regard to non-profit, non-governmental organizations, referenced here as CSOs.

The Handbook asserts the **obligation of the state** to ensure the provision of social services as stipulated by international legal instruments, and underlines the primacy of the human rights based approach to service provision. While government responsibility and funding for services cannot be delegated, the operation of such services can be contracted out to non-state providers. The mixed modalities of such service provision serve to improve access for people in need of social services by broadening the choices available to them.

This Handbook finds that successful social contracting is strongly related to the processes of **decentralization**. This includes, in particular, the necessity to dedicate adequate revenues for social contracting, as well as the authority to make decisions on incomes and expenditures at a local level. If the central governments delegate responsibility for the services at the municipal level without creating an enabling framework for funding of the services, it is not likely that the services will be delivered in the volume and quality required. In some cases, the services may not be delivered at all, even though the local authorities are obliged by law to ensure the provision of the services. On the other hand, the central government cannot be expected to fund all the local needs by itself, which is why options must be explored to generate funding locally (for example, through property taxes, local taxes, user charges, and municipal borrowings).

There are different **policy rationales for engaging in social contracting**. One main reason for the inclusion of private for-profit and non-profit service providers is that the state cannot manage everything by itself. By contracting out services, governments can concentrate their efforts on policy-making as their core function. Another important advantage of contracting out services ensures that non-state providers can offer added value, i.e. additional benefits for the same services, and/or price compared to provisions by the governments themselves.

In order for a mixed modality of service provisions to function properly, **clear regulation of the procedure** for social contracting is required. Central to the procedures on social contracting are the principles of open and fair competition, transparency, and accountability in spending public money. General procurement rules are usually not fully suitable for purchasing so-

cial services – rather, they can serve as a basis for the regulation of social contracting. The most prominent distinction is that in the case of social contracting, price alone should not be the key factor in selecting the provider. Quality of service and other factors that determine the best value for money should take precedence; in fact, prices are often set by national or municipal legislation.

This Handbook identifies five key **preconditions** to effective social contracting, the lack of which may jeopardize its success. These are:

(1) **Balance between responsibility and authority:** In cases where local governments are mandated to ensure the delivery of social services, they should be in a position to determine the needs for these services and raise revenues locally to ensure funding.

(2) **Affordability:** Sufficient, appropriate and predictable funding should be available to finance services at the local levels in order to make sure that the beneficiaries can enjoy adequate access to the services.

(3) **Capacity:** Both local governments and CSOs need to invest in special skills to engage in social contracting.

(4) **Transparency:** Social contracting can be compromised without a transparent and fair process in awarding and managing contracts.

(5) **Accountability:** Proper accountability mechanisms for both local governments and CSOs – wherein service providers are in place to ensure social contracting works towards its ultimate beneficial end – to make social services more accessible and better adapted to the needs of the beneficiaries.

There are a number of important **advantages of CSOs as service providers:** (1) they are closer to the beneficiaries and the problems they experience; (2) they have strong potential for innovation; and (3) they are more flexible and consequently more responsive to the needs of the beneficiaries. They can also bring additional resources and multiply the effects of the intervention by matching public funding with philanthropic funds. Often, CSOs have expertise that cannot be found in the public sector, and they bring new issues to the policy agenda. Keeping all this in mind, CSOs should be seen as partners and involved in the full process of social contracting – from priority-setting to service delivery and monitoring/ evaluation.

When reviewing the concept of **social contracting in the CIS region**, we need to emphasise the fact that although there is a term that is commonly used in these countries for social contracting (*socialnyi zakaz*), the concept itself is not clear and is being interpreted in different ways in different countries. Social contracting represents an overlap between the policies for delivering social services and those for providing support for CSOs. As in most countries in this region, both of these policy areas are still evolving, and sometimes they are seen as identical.

For example, *socialnyi zakaz* as an instrument typically supports not only CSOs that provide social services, but also supports activities in education, culture, environment, or even the

institutional costs of the organizations. For this reason, it is important to reiterate that the primary purpose of social contracting, as defined by this Handbook, is to ensure that basic social services are delivered to those sections of society that are in need of it.

At the same time, the inclusion of CSOs in service provision can have a vital impact on their development and sustainability, which is an important benefit that stems from the mixed modality of service provision in the CIS region. The country assessments and case studies in this Handbook demonstrate good practices in implementing certain elements of social contracting, as well as the challenges still faced by the governments, local authorities, and CSOs service providers.

This Handbook provides for a set of key **recommendations** for decision-makers and all the stakeholders to help address challenges, enhance the effectiveness of social contracting, and improve access to social services in the region. The recommendations are based on research in the three countries, and some of them address problems specific to these countries. At the same time, given the similarities of the service provision systems in the CIS, when adapted in context they could be applicable to all the countries in the region. The recommendations include:

- ***The responsibility for the provision of social services should remain with the governments:*** The governments are obliged to provide the basic social services and need to develop an appropriate policy framework to meet this obligation; the policy framework may include social contracting as the main or a complementary mechanism for delivering social services.
- ***Governments should ensure appropriate funding for the services that they have a legal obligation to provide:*** This responsibility entails the provision of sufficient and predictable (long-term/ ongoing) funding for services, whether at the central or the local level.
- ***There is a need to make a difference between grants for CSOs and social contracts:*** Grants are a more appropriate mechanism to fund innovation, start-ups and capacity building, while contracts should fund ongoing, long-term service delivery.
- ***There is a need to create a specific mechanism and develop guidelines on social contracting:*** This is different from the procurement process, and is aimed at ensuring appropriate “value for money”. In social service delivery, price should not be the only determining factor; however, social contracting is similar to the procurement process in terms of following the principles of transparency and accountability in public spending.
- ***Beneficiaries’ rights and needs should have a central place throughout the process:*** They should be involved in needs assessment and service design; they should be given choices in delivery mechanisms, and should be encouraged to participate in the monitoring and subsequent evaluation of the service.
- ***States should invest in the capacity development of local authorities and CSOs:*** While this presents a dilemma in terms of timing and resource constraints, a gradual approach in introducing the social contracting mechanism can help focus the investment. This is of utmost importance in the region, where the authorities need to shift from service provision to policy-making and monitoring of quality standards, while CSOs need to ensure continuity of service provision and standards in order to become efficient service providers.

- **CSOs should be allowed to participate in and conduct direct economic activities:** They are not only an important source of CSO sustainability but also help advance the implementation of social contracting.
- **There is a need to effectively monitor how services are provided:** The purpose of the evaluation (focus on process, performance, impact) has to be clear, and CSOs and beneficiaries should be involved in the monitoring process, alongside with the government institutions in charge of monitoring and quality assurance.
- **Social contracting works best as a partnership:** While all stakeholders work with the common aim of providing the best service for beneficiaries, a written expression of the framework for cooperation facilitates trust, as also effective funding arrangements among municipalities, CSOs and the business/ donor community. It also guides expectations and enhances enforceability of agreements.

I. Introduction

I.1. About the Handbook

Many countries of the Commonwealth of Independent States (CIS) are currently in the process of redesigning their public and social systems to meet the challenges of deepening economic and social difficulties. In doing so, they are seeking to strike a balance between central and local authorities, both in terms of powers and in terms of funding. These developments present the possibility and the need for increased partnerships between non-state providers (CSOs and businesses) and the state.

The financial and economic crisis has resulted in a decrease of GDP and budgeting revenues in a number of the CIS countries. This has had not only economic, but also social effects – job losses are not compensated with the creation of new jobs, and governments have to do more, with fewer resources available to finance social services. The decreased opportunities for employment exacerbate further the situation of the most vulnerable groups of the population – long-term unemployed, migrants, refugees and internally displaced people, people with disabilities, minorities, and others in disadvantaged situations.

The exacerbating of social problems creates the need for unifying the efforts of all the stakeholders – the central and local authorities,

CSOs, businesses and society as a whole – in redesigning the social systems in these countries and addressing social problems through innovative and more effective modalities of service provision. The purpose of this handbook is to **explore one approach to the reform of social systems in Eastern Europe and primarily the CIS – that of “social contracting”**, by outlining the ways in which the state (both at the central and local level) can cooperate with non-state providers in order to deliver social services to the population – the so-called mixed modalities¹.

“Social services” and “social contracting” are not internationally agreed terms, with a single objective definition that could be relevant for all the countries in the region. Although, there are certain commonalities, every country has its own approach and learning points emerge from these differences. Therefore, when discussing the possibility of contracting non-state providers for the purpose of social service delivery, there needs to be clarity as to what are the services covered and who are the potential providers. The research team has focused on social services in the **narrow definition of this term – the services in the area of social assistance aimed at vulnerable groups**, which excludes cash transfers for the poor and vulnerable. (A more detailed definition of social services and further explanation of the terms used in this Handbook can be found in the Glossary.)

¹ Mixed modality of social services provision refers to cooperation between government and non-state providers in financing and delivering social services. For a more detailed definition please see Glossary.

In addition, having completed the desktop research and field trips², it became clear that the main focus of this Handbook will be **service provision by the CSOs with support from public funding sources**, as they are the main non-state service providers in the CIS region. Therefore, while this Handbook makes references to all non-state providers in some of its sections, it provides case studies and guidance primarily with regards to non-profit, non-governmental organizations, referenced here as CSOs.

This Handbook aims to raise awareness about the opportunities and challenges related to contracting of social services, as well as to present the basic issues associated with the relevant legislation and its practical implementation. It may serve as a basis for open dialogue among the different stakeholders, as to how social contracting can be further developed in their own countries to ensure that it serves its primary purpose – to increase the access of people in need of social services. While the country and case study examples are focused on the CIS, the analytical framework, findings and recommendations will also be relevant for countries in the Western Balkans and other countries in transition.

The structure of the Handbook was designed to lead policy makers, development practitioners and other stakeholders from both the public and non-state sectors through the process of answering the above questions. The Handbook contains:

- A discussion of the broader policy and regulatory framework related to social contracting;
- A description of the basic policy rationales and conditions for central and local level governments to engage in social contracting;
- A brief differentiation between contracting of social services and other forms of government funding for CSOs;
- An analysis of the role of CSOs in social service delivery;
- A description of the situation with regard to social contracting in three selected CIS countries – Armenia, Kazakhstan and Ukraine³;
- Presentation of the three case studies with learning points – one from each country;
- Recommendations for countries on how to improve their systems of social service delivery by including CSOs in the

This publication aims to answer the following main questions:

- What is social contracting and how can it be applied in the CIS context?
- Why would a government opt for social contracting?
- What are the key elements of a regulatory framework for social contracting?
- How can the provision of social services by a non-state actor be funded?
- What is the role of CSOs in social services provision?
- What are the benefits in contracting CSOs for the provision of social services?
- What are the risks and obstacles involved?
- What are the necessary steps a government should take if it wants to introduce an effective system for social contracting?

² During the field trips to Armenia, Kazakhstan and Ukraine, the research team interviewed representatives of the ministries and local authorities that apply the practice of social contracting, as well as CSOs and beneficiaries. Focus groups were held in each of the three countries with participation of the local stakeholders involved in social contracting.

³ For the selection criteria of the three countries see section 1.2 of this Handbook.

provision of social services through social contracting mechanisms;

- A checklist of practical steps for local authorities in introducing social contracting mechanisms.

The Handbook will be a useful tool for:

- National and local authorities, to help with reforming their social service delivery systems, and introducing mechanisms for contracting non-state entities to provide social services;
- Local authorities, to help with mapping the needs in their communities and planning on how to address them;
- UNDP country offices, to help in understanding the pros and cons of the mixed modalities of social services provision and the role of CSOs and other non-state providers in the social service delivery process; and in designing their programs to better fit the partnership approach in social service delivery in specific contexts;
- CSOs and other providers of social services, to help with a better understanding of the overall system of social service delivery; helping them identify the improvements needed related to their own capacities and the improvements needed in the overall systems of service delivery; and in advocating for their improvement.

1.2. Methodology

The Handbook is based on:

- (a) A review of the existing research and legislation relating to social contracting, primarily in Europe; and

- (b) The examination of three countries proposed by the authors and approved by the UNDP Bratislava Regional Center – Armenia, Kazakhstan and Ukraine.

The countries have been selected because they each showcase a different model of social contracting: they represent the three different regions of the CIS, but also differ in terms of size, economy and social systems. Furthermore, the three countries are at different levels of the decentralization process of their social welfare systems and involvement of CSOs in social service delivery. The Republic of Armenia provides an example of how the government started financing CSO service provision in a country where social services are still largely provided by non-state actors. In Kazakhstan, there is a centralized system of state support - over \$10 million USD was awarded in 'social contracts' in 2009⁴, and the government has repeatedly stated its commitment to social contracting; meanwhile, there are also good examples of this practice at the local level. Ukraine can be regarded as a country where diverse methods of state-CSO cooperation have taken root, and which has been developing a more complex and more sophisticated system for social contracting.

This Handbook was prepared based on:

- Desk research examining the current laws and draft laws in the countries of Armenia, Kazakhstan and Ukraine, available regulations and other relevant documents (e.g. past legislation, data/statistics);
- An extensive review of relevant international literature, including academic studies, reports of government agencies and CSOs, UNDP resources and others (*for a full list please refer to the Bibliography*);

⁴ Kaptaeva, A., *Kazakh Experience of state funding for NGOs through social contracting, the Third Sector Journal, Kyrgyzstan, June 2010*

- Field visits in the three countries and meetings with national and local experts, decision-makers, CSO representatives, and other stakeholders from all the three sectors;
- Roundtable discussions organized in each country with experts and stakeholders, discussing the merits, weaknesses and gaps in the existing social service systems;
- Researching individual case-studies that provide insights into the social contracting practices in each country;
- Discussions with and peer-review by UNDP staff in the field offices and in the Bratislava Regional Center.

II. Including non-state providers in social services delivery: A policy framework

II.1. Human Rights Based Approach

First and most important, the Human Rights Based Approach (HRBA) should be considered in understanding the policy framework for social contracting. (*For an explanation of the HRBA see the Glossary.*) It should be emphasized at the outset that social contracting is not about delegating or transferring the responsibility for social services to a non-state actor. Rather, it is about making the provision of social services more effective and/ or more efficient through mixed modalities of social service provision and by involving non-state providers through clearly defined and transparent procedures.

II.1.1. *Obligation of the state to provide social services*

In relation to division of labor among state and non-state actors in social services provisioning,

we can distinguish three components that should be examined when developing the policy framework for social contracting:

- Responsibility for providing the social service;
- Financing the service;
- Operating (running) the service.

In accordance with HRBA, the state must always remain the duty-bearer in providing the services; it may not transfer this *responsibility* to the provider.⁵ The government will also, inevitably, be the main actor in *financing* those services, even though non-state funding sources are often included in the provision of social services to complement government funding and increase the availability of resources. Finally, while the government can also be the main (or even sole) provider *operating* the actual services at the local level, this function can be effectively contracted out to non-state actors, which is where social contracting plays a role.

⁵ The main human rights instruments to refer to in this context include the International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Rights of the Child (CRC); Convention on All Forms of Discrimination against Women (CEDAW); Convention on the Rights of Persons with Disabilities (CRPD) among others.

Under the principle of progressive realization of economic, social and cultural rights, governments must undertake necessary steps to achieve the fulfillment of these rights even when they are faced by resource constraints.⁶ Social contracting is one of the possible ways to address the pressing need for social services in a situation where governments cannot allocate sufficient resources to cater for basic social services on their own (*from among the countries included in this Handbook, Armenia is a case in point*). However, the involvement of non-state providers in social services *should not be seen as a substitute* to a government's fulfillment of its obligations in ensuring equal access to adequate social services for all sections of people in need.⁷

The states' responsibility in providing social services is expressed primarily through *legislation on social protection* that: (1) establishes the obligatory tasks of the central and local governments in social services provision, (2) renders appropriate resources to fulfill those tasks, and (3) regulates the implementation of such laws. All the countries examined in this study have already taken steps – both at the national and the local level – to create a favorable legal and fiscal framework for social contracting. However, in order to reap the full range of the benefits of social contracting – particularly when the positive outcomes for service beneficiaries are at the centre of policy creation – the government needs to develop a complex and sophisticated system of legislation, financing and supervision that

proves to be an ongoing challenge even for the most developed economies.⁸ In **Section II.6**, we include a brief overview of the key elements of such regulation.

II.1.2. Focus on the beneficiaries in policy development

In contracting for social services, the rights and needs of the beneficiaries should be at the heart of policy making. This means that the services, whether provided by public or non-state providers, have to consider beneficiaries' rights to access adequate services and their needs for social services in the light of the principles outlined in international treaties and domestic laws. Those rights are not uniformly formulated; however, based on the interpretation of the International Convention on the Economic, Social and Cultural Rights (ICESCR), and the accompanying Optional Protocol by various UN agencies and other development actors, they can be summarized along the following lines⁹:

- **Availability:** Functioning facilities and services have to be available in sufficient quantity at the adequate levels of territorial administration. The precise nature of the facilities, goods and services will vary depending on numerous factors, including the country's level of development. However, the basic social service levels defined in the law (including international treaties, and national and lo-

⁶ Article 2 of the ICESCR imposes a duty on all parties to "take steps... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures".

⁷ Focus on HRBA may also entail that even when the government has the necessary resources, engaging non-state actors could enhance access and quality of services for the beneficiaries (for example, through more choices, enhanced competition among providers, etc.).

⁸ See e.g. the ongoing debate in the UK on social contracting, accessed November 16, 2010: <http://www.serco.com/instituteresource/subjects/UKmkt/thirdsector/index.asp>

⁹ Based on: *The right to the highest attainable standard of health: 08/11/2000. E/C.12/2000/4.: General Comment No.14 (2000) of the Committee on Economic, Social and Cultural Rights of the Economic and Social Council to article 12 of the International Covenant on Economic, Social and Cultural Rights assessed on February 17, 2011 at: <http://www.unhchr.ch/tbs/doc.nsf/%28symbol%29/E.C.12.2000.4.En>*

cal legislation) should be made available to women and men, girls and boys in need of social services.

- **Accessibility:** Accessibility has four overlapping dimensions:
 - Non-discrimination: Facilities and services must be equally accessible to all, especially the most vulnerable and/ or marginalized individuals and groups, under the law, and in fact, without discrimination on any prohibited grounds.
 - Physical accessibility: Facilities and services must be within safe physical reach of all people, especially vulnerable and/ or marginalized groups, such as the elderly, persons with disabilities (including those with sensory and/ or physical impairments), and ethnic minorities.
 - Economic accessibility (or *affordability*): Basic social services must be affordable for the beneficiaries. Payment for social services has to be based on the principle of equity, ensuring that they are affordable for all, including the socially disadvantaged groups.¹⁰
 - Information accessibility: accessibility includes the right to seek, receive and impart information and ideas concerning the social services provided.
- **Acceptability:** Services must be respectful of human dignity and culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being

designed to respect confidentiality and improve the quality of life of those concerned.

- **Quality:** As well as being culturally acceptable, social services must also be professionally appropriate and of good quality. This requires, *inter alia*, expert management and skilled personnel, and minimum quality management tools such as soliciting beneficiary feedback and peer reviews, etc.

II.2. Defining social services

As mentioned in the introduction, there is no universally accepted definition of what comprises social services. (*For a definition used in this Handbook see the Glossary.*) At the same time, under its obligation described in **Chapter II.1**, the state needs to define the **statutory services** (also termed guaranteed or compulsory services) that are provided to the population in law. These are most often defined in specialized laws (related to education, health, social assistance), and in laws concerning the powers/mandates of local governments.¹¹ Financing of such services has to be allocated in the budget laws on a yearly basis.

II.2.1. Typology of social services

Typically, social policy and ensuing laws on social protection define **social assistance** in terms of two components:

¹⁰ This principle includes the possibility and, indeed, suggestion that those who can afford it should pay for the services, thereby making it possible that the services can be offered for free or at a lower price for the poor.

¹¹ While the term 'social services' includes a broad range of services, its specific content can be different depending on the legislation of the country. Sometimes, as in Poland, it is equated with the broader realm of "public services" or "welfare services", such as health-care, culture, education etc. In other cases, as in Bulgaria, social services refer only to the area of social assistance, and as such they are aimed primarily at the vulnerable or disadvantaged part of the population. "Social services are activities, which support and expand the opportunities of the persons to lead independent way of life and are implemented at specialised institution and in the community" Bulgarian Social Assistance Act. See also the Glossary.

- The provision of **cash transfers** and other material assistance (food, medicine, wheelchairs or other products to help better the situation of disadvantaged people, depending on their needs); and
- The provision of **services** that help disadvantaged people lead a normal life.

While this Handbook is not focused on cash-transfers, it should be noted that they are within the realm of the non-transferable state responsibilities that also apply to a number of social services. In many countries of the region, state provision of social services is still the dominant approach. However, the tendency to include non-state providers in service provision is getting stronger. Services can be subject to contracting out by the central and local governments. Some types of services cannot be contracted out, such as services and procedures for child adoption or other highly sensitive and specialised child-care services. In addition, even when the service is contracted out, certain functions may remain in the competence of the government acting as an authority, e.g. the determination of eligibility for the service. There is no blue-print as to which particular services or functions should continue to be provided by the government, and this depends to a large extent on the overall policy framework in each country.

With regard to social services, there are also two main distinctions:

1. Social services provided in residential **institutions** (also referred to as institutional services)¹², and
2. Social services provided at the **community** level (also referred to as non-institutional services).¹³

It is the second type of services that CSOs and other non-state providers are best at, although in the more developed welfare states, it is also common for non-state providers to maintain or manage social institutions. The trend across Europe over the past two decades has been **de-institutionalization**: a move towards services in the community, and to place people into institutions only when community services cannot be provided. For example, children without parental care are placed in foster care, while elderly people and people with disabilities may receive a combination of day-care and home assistance services. Furthermore, in order to provide services to the needy close to their place of origin where possible, institutions have become smaller and more community-based, such as homes for assisted-living for people with disabilities.

Another way of categorizing social services is to make a distinction between **basic** (also termed primary or generic) and **specialized** services.¹⁴ In this typology, basic services are essentially community-based services that provide a more generic service (such as family help centers or counseling services), while specialized services focus on a certain target group (such as child protection or assistance to the elderly). Furthermore, institutional services may be defined as highly specialized services, as in **Moldova** (see Box). Finally, some laws include the term “**integrated social services**” which aim to address the various needs of a client through harmonizing the services from different fields (for example, an after-school care service for children with disabilities may include elements of family assistance, medical rehabilitation and educational development, while a home visiting service for an elderly person may offer personal assistance, as well as health services).

¹² Although there are still many residential institutions in the countries of the region, it should be noted that both the Convention on the Rights of a Child and the Convention on the Rights of People with Disabilities emphasize the need to ensure community-based forms of care, and residential institutions should be used only as a temporary and last-resort measure.

¹³ For an explanation of institutional and community social services also see the Glossary.

¹⁴ For more details on the definition of basic, specialized and integrated services, also see the Glossary.

Within the CIS region, the predominant policy had been to institutionalize people during the socialist period; therefore, alternative social services have started to develop only recently, and are still only rarely found within the state structures. The more a country aims at de-institutionalization and at providing services in addition to cash transfers, the more there will be opportunities for social contracting. Given that the provision of social services to the vulnerable populations is rarely a profitable business, the role of CSOs as complementary, alternative providers of social services is potentially very significant.

II.2.2. Responsibility for service provision

When the responsibility for social services is devolved to the regional and local self-governments, **it should be clear which statutory (compulsory) services** the regional and local governments should undertake. Some of the services may belong to the municipalities

and others to the higher territorial units (such as the *rayons* or *oblasts* in Ukraine). The obligation to undertake certain services can also be determined by the number of people living in the territory of the municipality (i.e. a small municipality would be obliged to provide only two-three basic services, while a larger one could be required to provide a greater number and variety of social services). Highly specialized social services that are provided in residential institutions (such as institutions for people with mental disabilities) are usually assigned to a higher territorial unit or to larger municipalities.

Besides statutory services, there is also the possibility of providing non-statutory services. In such cases, the municipalities have the option of providing the social service if there is a need for such a service in the territory within their jurisdiction. The law cannot foresee all possible needs and services that may emerge in the community (in many cases, social services were actually developed and provided first by CSOs), but the government has the re-

Moldova: Law on Social Services

The Law on Social Services was adopted in Moldova in June 2010. Article 6 of the Law on Social Services defines three types of services: primary social services, specialized social services, and very high need [*i.e. highly specialized*] social services. The following definitions are included in the Law:

- (1) Primary social services are provided at the community level to all beneficiaries and aim at preventing or limiting situations of difficulty that can cause marginalization or social exclusion.
- (2) Specialized social services are services that imply the intervention of specialists and aim at maintaining, rehabilitating and developing individual capacities to overcome a situation of difficulty for the beneficiary or his/her family.
- (3) Very high need social services are services provided in a residential or specialized temporary placement institution, and imply a series of complex interventions that can include any combination of specialized social services for beneficiaries with increased dependency and who require continuous supervision (24 hours).

sponsibility to ensure that when certain services are provided, they remain accessible and of a minimum quality. Hence both the statutory and optional services enlisted in the law (in most of the countries, the law dealing with this area is the law on social protection) are usually complemented with the prescribed standards of social care and envisage financing mechanisms.

Over time, depending upon the needs at the community level, some services may be taken off the list and new ones added (for example, in ageing communities the need for kindergartens might decrease, while the need for social care services for the elderly might increase). In addition, local governments should be free to develop any additional social services for which they see a need, even if those are not especially listed in the law (for example, in communities with an unusually high migrant population, specialized counseling services may be introduced to the migrants even when there is no such need at the national level). However, given that in these cases, the requisite regulations have not (yet) been developed, there will be no standards or options for financing ensured by law.

II.2.3. Decentralization of social services

Social contracting is strongly related to the decentralization of social services. The World Bank defines decentralization as “the transfer of authority and responsibility for public functions from the central government to subordinate or quasi-independent government organizations and/or the private sector”.¹⁵ It is a complex and multifaceted concept, including different types such as political, administrative, fiscal, and market decentralization. (See below, as well as the Glossary, for an explanation.) In an

effort to modernize public administration and achieve sustainable economic development, most CIS countries have undertaken measures for decentralization, including the decentralization of social services. The transfer of obligations for the provision of social services to local self-governments raises both the necessity and the opportunity to involve non-state actors, since many of the local self-governments cannot ensure the appropriate level of social services.

The extent and effectiveness of social contracting for the purpose of social services provisioning will be determined by the interplay of deregulation and the different types of decentralization: political, administrative, fiscal, and market decentralization.

Deregulation, as a form of market decentralization, is of key importance in social contracting. This process reduces the legal constraints on private participation in service provision or allows competition among private suppliers for services that in the past had been provided by the government or by regulated monopolies. At the same time, deregulation does not mean a lack of regulation, but different rules and regulations that enable both public and private entities to act as social service providers. In fact, effective social contracting requires the development of effective procurement procedures and other regulations that allow for transparent and accountable mechanisms for involving private service providers.

In terms of **political decentralization**, local authorities that are accountable to their local constituencies, rather than the central government, are more likely to appreciate the importance of addressing the needs of their constituencies, including the appropriate social services provision. As such, they will be more likely to en-

¹⁵ World Bank, *What is Decentralization?* accessed on November 15, 2010 at: http://www.ciesin.org/decentralization/English/General/Different_forms.html

The experience gained in Romania is significant in this respect because it shows that the decentralization of social welfare without having the necessary preconditions in place can undermine the provision of cash benefits and social services. Upon passing the Law on Local Public Finance in 1998, which significantly increased the responsibility of local governments for financing social assistance and child protection cash benefits and services, the total spending on social assistance suddenly dropped. Owing to lack of resources, local governments were forced to scale back their provisions for cash benefits and services, or stopped providing them altogether. In the area of social services, some local governments were unable to maintain even recurrent expenditures. Following such dramatic erosion in the safety net, Romania recentralized the financing of social assistance in 2002.

Source: World Bank, 2006, Serbia Social Assistance and Child Protection Note, Report no. 35954-YU, web: http://siteresources.worldbank.org/INTSERBIA/Resources/Serbia_social_assistance.pdf

gage in partnerships and contracts with non-state actors who are well placed to assist them in meeting community needs.

Fiscal decentralization is extremely relevant for social contracting. This refers to the necessity to dedicate an “adequate level of revenues – either raised locally or transferred from the central government – as well as the authority to make decisions about expenditures”¹⁶ that are appropriate for the functions that are legally transferred to the local governments. If the central government transfers responsibility for the social service provision to the municipal level without taking into consideration the need to secure the adequate funding of the social service, it is likely that the services will not be delivered in the volume and quality needed or that they will be delivered at all. On the other hand, the central government cannot be expected to fund all the local needs, which is why there has to be the possibility to generate funding locally (for example, through property taxes, local taxes, user charges, municipal borrowing etc.). (See also **Section II.5.2** on the principles of financing mechanisms.)

In terms of **administrative decentralization**, social contracting becomes a central question,

especially in the case of the so-called devolution, i.e. “the transfer of authority for decision-making, finance, and management”¹⁷ of the services to the local level”. In other cases, including *de-concentration* (the transfer of obligations to a lower level of the central government) and *delegation* (the transfer of obligations to a quasi-autonomous agent under the control of the central government), social contracting may still be relevant, depending on the specific context and needs for services.

The three main forms of administrative decentralization can co-exist and function in parallel in relation to different areas of state policies. For example, while local governments may have the full authority to make decisions locally on issues related to elementary education, services in the area of employment could remain controlled by the central government through de-concentrated units or delegated agencies.

It is also important to bear in mind that the levels of administrative decentralization depend largely on the territorial administrative units in the given country. The various levels (municipal, county, regional etc.) may also have different mandates in relation to service provi-

¹⁶ *Id.*

¹⁷ *Id.*

sioning and social contracting. For example in Ukraine, municipal councils have the authority to decide on how to spend income generated by the municipality itself; however, *rayons* and *oblasts* (higher level administrative units, see the *Glossary for definitions*) are obliged to spend self-generated income to fund responsibilities that are delegated to them from the national level.

II.3. Policy rationales of social contracting

“Partnerships with non-state actors can help increase the range of social services that is available, improve quality through competition, and foster greater public participation and ownership of social assistance programs in civil society.” (World Bank)¹⁸

Limited government capacity

One main reason for introducing the mixed modalities of service provision is that the state cannot manage everything by itself, especially in times of crisis when governments are required to provide more social services with fewer resources. Every government faces the problem of finite human and institutional resources and the need to ensure the provision of a wide range of services in response to increasing needs. The argument of limited resources and thus, limited capacity is especially true in the CEE and the CIS countries where the post-socialist governments inherited weak administrations and poorly maintained infrastructure. In the CEE and the CIS countries it has been seen that the local governments prefer to contract out new services,

rather than employ new people, train them, secure premises for them, etc. and so it is often easier to contract some of the services to non-state providers. In addition, sometimes non-state providers are better equipped to deliver social services because they have more experience, and better access to difficult-to-reach target groups, etc.

One important reason for contracting non-state providers is that they bring in additional financial resources – be it capital investments or the financing of ongoing service provision. While this is an important argument, it should not be seen as the main reason to contract out services – financing of the services prescribed by the law should remain the responsibility of the government and reliable financing should be allocated for these services.¹⁹ Significant resources may be mobilized from the private sector through Public-Private Partnership (PPP) arrangements. (*More information on PPP and role of for-profit sector in social contracting is given in Section III.4 of this Handbook*). In the case of CSOs, additional resources such as volunteers will enable CSOs to provide added benefits for a given price (*see more on this in Section III.2*), but the cost of providing the service should be borne by the state.

Focus on policy-making and core functions

The contracting of services should not necessarily mean that the government does not have sufficient capacity for the provision of social services. By contracting out services, the government can concentrate its efforts on its core functions – policy-making, setting service standards, monitoring of service quality, control on budget spending, etc. In this way,

¹⁸ World Bank. 2000. p 309

¹⁹ This holds true even though in practice this is often not the case. For example, in many countries, the financing of services for people with disabilities comes from the state lottery; therefore, the amounts are not stable and depend on the level of funding obtained through state revenues from the lottery. Service contracts, where they exist, are typically concluded for a one-year term only.

it can devote more resources to creating better policies, and making sure that all the people in need have equal access to social services, and that the services provided are of better quality. In fact, there is an argument that if the state provides the services and controls their quality, there might be a conflict of interest as sometimes political considerations stand in the way of objective monitoring (see *below*). Therefore, the performance of state functions by a third party need not be seen a sign of government weakness (as is often the perceived case), but can on the contrary represent a legitimate and solid policy choice, provided that appropriate consideration is given to the potential risks of such a choice.

Achieving government objectives

Importantly, social contracting can more often be seen as helping implement government policies, rather than simply as a mechanism to include non-state actors in social services provisioning. By financing selected types of services, the government can “generate demand” for certain types of actions by non-state actors that promote its objective in resolving a social problem. For example, in the Astana case study, the local authority needed to develop a new policy to ensure appropriate services for children without parental care, and thus utilized social contracting to implement this policy. In Ukraine, government programs that are aimed at long-term results, such as the fight against tuberculosis or the promotion of children’s rights, are always implemented with the involvement of CSOs and other non-state actors. Therefore, social contracting can serve as a valuable tool for addressing the need for social services when government capacity is inexistent or insufficient.

Added value of non-state providers

Another key reason for contracting out services is that it is expected that the non-state provider will offer added value, i.e. additional benefits for the same service or a better price compared to provision by the government itself. These may include closer contact with the beneficiaries of the service; access to difficult-to-reach groups of people (for example, drug users, youth at risk, people living with HIV/ AIDS, sex workers, etc.); an interest in developing the services (to increase beneficiary satisfaction and, especially in the case of the CSOs to address unmet client needs arising from the existing gaps in social services provisioning); an interest in service innovation (piloting new services offers the possibility of developing capacities in a new area, which could in turn offer comparative advantages over competitors); management efficiency (especially among for-profit providers in a competitive environment).²⁰ Consequentially, it can be said that the government will opt for social contracting when it can be expected that the beneficiaries will receive either higher quality services for the same price, or lower prices for the same quality of service in comparison with government entities (i.e., better value for money).

Attention should be paid to maximizing the potential of the added value. A case in point is the dilemma of encouraging competition versus ensuring continuity. Maintaining competitive pressure on all service providers (public, private, non-profit) raises overall efficiency. However, in practice it often proves difficult to maintain competition in the longer term, as this would jeopardize continuity of the service. This is largely due to the fact that social services require high specialization, and that non-state providers would not invest resources in training and retaining ex-

²⁰ This point is reinforced by a US study: “Economic theory of organizations”. Specifically several aspects of the theory of the firm and transactions-costs theory, help illuminate why in many instances it may be more efficient for government to delegate delivery of services to private organizations than to deliver those services itself.” In: *Alternative Models of Government-Nonprofit Sector Relations: Theoretical and International Perspectives*, Dennis R. Young, 2000 in: *Nonprofit and Voluntary Sector Quarterly* 2000 29: 149, p. 153

pert personnel (not to mention buildings and institutional infrastructure) unless they see a guarantee for longer-term operations. Continuity of service is also of pivotal importance from the perspective of the beneficiaries of the service. Thus, often when one of the existing providers wins a contract and the local government is satisfied with its performance, it will invest in its development and a “monopoly” is likely to be created, since the breaking of a long-term contract arrangement may cost too much for both sides.²¹ On the other hand, in welfare states where the state has been contracting with non-state providers for decades, it has been observed that over time, the non-state provider may “adjust” its modus operandi to that of its main funder, i.e. the state bureaucracy, and become less efficient in its economy. This is especially true in the case of CSOs that do not have the profit motive to keep them working towards maximizing financial efficiency.²²

It is, therefore, crucial to monitor the effectiveness of the delivery of social services by the contracted actors and strive for a balance between competition and continuity. Ways to provide incentives for efficiency include the periodical review of service standards, beneficiary assessments, and close monitoring of costs, ensuring that at the renewal of the contract/ license, the non-state provider has to adjust its systems.

Accountability in public spending

In addition to better value for money, it is expected that control over the quality of services and over spending will be stricter in the case

of non-state service providers than for government providers. The reason for this is that it is more difficult for the state to establish and control self-control mechanisms (i.e., its own service providing agencies), than to control a separate non-state entity. In the first case, there are a number of political considerations that should be taken into account. When control is separated from the provision of services, the beneficiaries of the services will have more freedom to assess the of quality services and to complain about the low quality of service (as they would not be afraid that the provider will treat them badly or simply exclude them from the service)²³. It is important to note, however, that over-controlling may lead to lower quality, as the provider will find it more important to meet the administrative requirements than to respond to the clients’ needs. Therefore, a flexible and effective contracting model is needed wherein quality control focuses on the clients and considers the limitations of the providers as well. This depends highly on the capacities of both central and local government to conduct effective controls.

Political considerations

Doubtless, there are also “purely” political reasons that may encourage social contracting.²⁴ For example, in times of budget cuts and a freeze on hiring government personnel (at any level), social contracting provides an “escape route”: it makes it possible to expand government services without expanding its payroll.²⁵ Social contracting may also give public authorities the chance to be relieved of direct engagement in the service provision. This

²¹ See e.g., Van Slyke, 2003

²² See for example House of Commons 2008

²³ See Struyk p.5, referring to Cohen and Peterson, 1999

²⁴ For more information on the political factors behind contracting out services see *Theory and Practice of Contracting Out in the United States* by Paul Seidenstat.

²⁵ “Contracting out is usually easier to get through the budget process because it does not appear as a county employee.” Van Slyke (2003), p.305. This phenomenon was strongly prevalent in Hungary in the late 1990s, when local governments were not able to hire due to budget restrictions. Instead, they created or promoted so-called public benefit companies that hired laid off staff, and then were contracted for the provision of the service.

works in two ways: on the one hand, the officials in charge of social service delivery are relieved from the tension of hiring or firing social workers or other personnel involved in social service delivery based on political influence. (*As the service provider is independent they are not involved in personnel decisions.*) On the other hand, if there are complaints about the quality of the social service, this can be blamed on the provider, and thereafter the public official (or public entity that has contracted the service) can take measures to correct the situation (for example, terminate the contract with the current provider). The downside of this argument is that authorities may see it as a possibility for not having to deal with certain target groups that should be catered for by the non-state provider (for example, one of the towns in Armenia transfers the cases of all the people in need to the office of the CSO providing social services, rather than dealing with them directly).

Risks in social contracting

While there are many reasons to engage in social contracting, it is not a risk-free undertaking. There are many risks and pitfalls, most of all because the purchase of service arrangements involves third-party contracts. Under these contracts, the 'buyer' or 'purchaser' (government agency) does not consume the purchased services, the 'client' or beneficiary does not pay for the benefits, while the 'contractor' or 'provider' (non-state service provider) is left in the highly advantageous position of dealing with a purchaser who rarely sees what is purchased, and a client who never pays for the service.²⁶ Therefore, government offi-

cial must put in place special procedures, and exercise considerable skill to formulate contracts that deliver the best deal²⁷, in order to monitor the process for quality performance, and to ensure accountability and transparency. This implies that they should obtain a new set of skills. This also requires capacity building of government officials in order to ensure the desired outcome.

Key risks include²⁸:

- Performance risks: For example, failure of the contractor/non-state service provider to deliver the services at the required volume or quality, or failure of the contractor to deliver the services in compliance with the regulatory requirements;
- Financial risks: For example, increase in costs, or fraud, or misuse of the funds transferred to the contractor;
- Political risks: For example, damage of reputation or loss of constituency support (citizens used to state-care may resent privatization²⁹, especially if service fees are even partially introduced).

Governments should be aware of the specific risks applicable in the given political and economic context in which social contracting is to be introduced. Most of the risks can usually be avoided (managed) by taking preventive measures; most of all by ensuring adequate government capacity to prepare and manage the contracts (see **section II.7**). A clear and enabling legal environment and proper financial measures are also necessary to mitigate the risks.

²⁶ Gilbert, N. 2006, p.4; See also World Bank Institute.

²⁷ *Id.*

²⁸ Based on Cordery, C. 2010

²⁹ See for example, the referenda in Hungary in 2006, which blocked even partial privatization of health and higher education services.

II.4. Models of government-CSO cooperation³⁰

Policies on social contracting depend also on the overall relationship between CSOs and the state. This relationship is complex and depends on many factors, including the social welfare model (i.e. universalist, corporatist, residual)³¹, the legal context (i.e. common law or continental law), the main functions fulfilled by the CSO sector traditionally (i.e. service, advocacy, expressive functions)³² and other factors that to some degree predict the extent and volume of the involvement of CSOs and other non-state actors in social contracting. In developed European countries, some models described below rely more on CSO provision of social services than others. In most CEE and CIS countries, social welfare provision has traditionally been within the exclusive realm of the state service providers. The direction of the social sector reform, as well as the relationship between CSOs and the state, is still changing and evolving towards more market-based solutions. While the models described here are not clear cut, and it is not clear whether CEE/CIS countries will follow any of the existing models, we believe it might be helpful within the framework of social sector reform, as also at the time of planning a policy framework for social contracting, to consider in more detail the possible levels and methods of involvement of CSOs and other non-state actors in service provision.

The potential for the mixed modalities of social service delivery, which involve partnerships between CSOs and the government, is closely related to the capacity and the potential of

the civil society sector. It is also related to the tradition of cooperation between CSOs and the government, a shared understanding of what are the basic preconditions for equal partnerships between CSOs and the government while clarifying the ultimate goals of such partnership in the area of social services provision. ECNL has studied the situation of partnerships, based on two characteristic features of the CSO sectors in different European countries.

- **Institutionalization** means the capacity of the non-profit sector to undertake projects and services for the government, i.e. the potential of the sector to be a reliable and accountable partner to the government in providing public goods and services. This includes, for example, the number of registered organizations, average budgets of CSOs, the proportion of CSOs that are defined as public benefit organizations, their physical infrastructure as well as their human and financial resources and overall sustainability.
- **Independence** means the ability of the non-profit sector to function independently from the government (or other institutions, for example, the church, political parties or foreign donors); i.e. the potential of the non-profit sector to remain a partner on an equal footing with the government or to challenge the government (or other donors) in its policies and practices. The key features of 'level of independence' include the general level of funding that the government provides to the sector, and the types of mechanisms used for advocacy and interest representation.

³⁰ This section builds heavily on the book *Public Financing of Non-governmental Organizations in Europe*, by Nilda Bullain and Katerina-Hadzi Miceva, ECNL (under publication). Quotes are taken with the permission of the authors.

³¹ Welfare models are defined in the Glossary

³² See Salamon-Sokolowski, 2004

Within the reference framework of the above two characteristics (the two axes), the ECNL study shows four main models of CSO-Government relations:

- **Corporatist (Continental):** In this model, CSOs are actively involved in the provision of social services and may be the main providers - as in the case of Germany, where the principle of subsidiarity entails the primacy of community-based services. At the same time, the state undertakes financing of the services as a whole, typically through third-party payments or subsidies to major providers and their interest groups. State funding thus represents well over half (usually 55%-75%) of the income of the sector.³³ Therefore, the CSO sector is highly institutionalized, as also highly dependent on the government for ongoing support. Since the government also needs the CSO sector, there is a kind of interdependence, termed “hierarchical interdependence” by ECNL, between the two sectors. A variation of this model exists in France, where the government recently started to revise its policies of subsidizing the CSO (associational) sector for its function of “solidarity”, introducing grants and contracts based on performance in delivering projects and services. Traditionally, in these countries, welfare has been corporatist, i.e. based on contributions of the workforce.³⁴ Relationships between the key actors (various levels of government, church and the third sector) are mainly reflected in fiscal legislation and legal entitlements.
- **Liberal (Anglo-Saxon):** This is a model typical of Anglo-Saxon countries (in Europe, primarily the UK; also Canada), although elements of it, especially the principle of contracting has spread to other countries on the continent (for example, the Netherlands). In this model, CSOs are also highly involved in social services provisioning; however, they are less dependent on the state. Even though they receive financing through contracts, they have strong roots in the communities; and their own assets, as also philanthropic and self-generated income, enable them to enjoy a strong advocacy role. The relationship between CSOs and the state is based on an overall policy agreement (known as *Compact* under the Blair government in the UK), and contracting plays a key role in delivering social services. In the UK, the welfare model had originally been residual, i.e. oriented toward the poor, which was most likely a key reason for the development of a high level of philanthropic and community based services for populations that lacked government care. However, it has evolved into an institutional model in which welfare provision extends to everyone in need.³⁵ In principle, all the sectors should participate equally in service provision (mixed welfare economy). However, in practice, CSOs have been preferred in several areas - for example, in community based social services, specialized institutional care and housing - due to the implementation of *Compact*.
- **Social-Democratic (Scandinavian):** This is a model that is typical in the Scandi-

³³ *Id*

³⁴ *The corporatist welfare system, originating in the 1880s Bismarck regime of Germany, has been based on a social security system in which welfare expenditure is financed from mandatory payroll taxes and benefits are related to the merits of employment (e.g. length of time served, level of income earned etc.). See also Glossary.*

³⁵ *That is, welfare was seen as being for the poor, not for everyone (which is the same case as in the institutional model). In a residual/ liberal model, welfare provision was a “safety net” for those most in need, not a “benefit” (corporatist model) or a “right” (social-democratic model). For more, see Glossary.*

navian countries. Here, the state is the main service provider. The CSOs are not typically involved in the provision of social services, but rather fulfill “expressive” functions (i.e. cultural, sports, hobby organizations that primarily serve their members’ and community interests). The welfare model is universalist/ institutional, and even though almost everything in social services provision is financed and delivered by the state, in contrast to the “statist” model of the former Soviet bloc, there is a high level of social capital and engagement in civil society (that is, there is a high level of volunteering, with the Scandinavian countries having the highest levels of voluntary engagement in Europe). The relationship between the two sectors can be characterized by the “live and let live” philosophy and consequently a low level of public funding of CSOs (instead, CSOs secure their resources through volunteering, membership fees, income generation, donations, etc.). At the same time, citizens and CSOs are extensively and directly involved in policy making, both at the local and the central levels (and increasingly through IT tools and the extensive use of the social media).

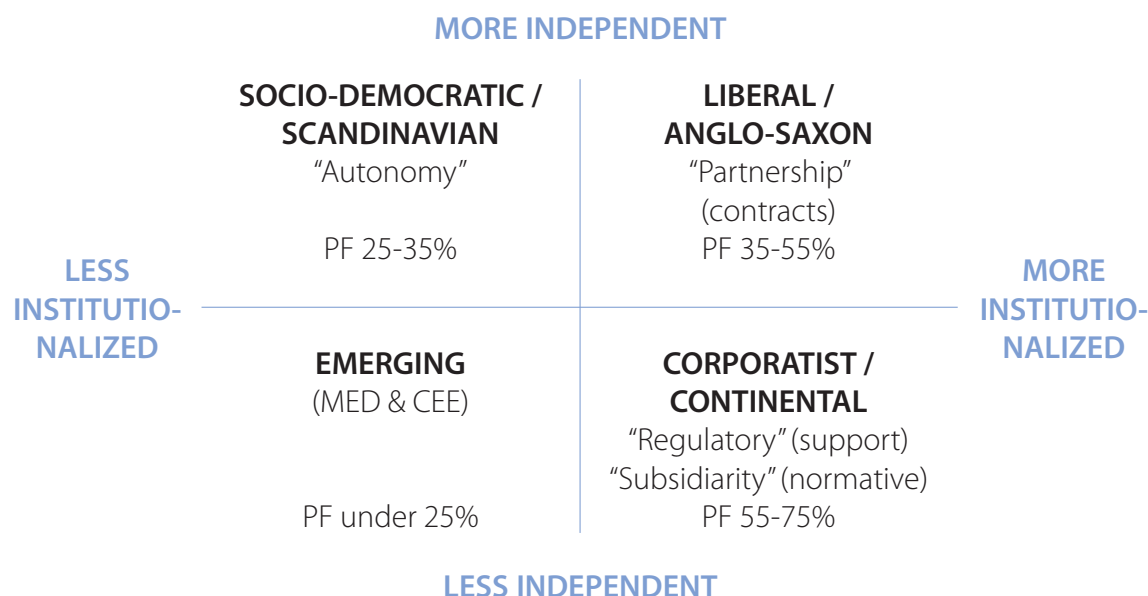
It should be noted that the Scandinavian model of state welfare is very expensive and it would be difficult to introduce this model in countries where governments do not have significant, continuous, and sustainable sources of funding social services delivery by public institutions. If resources are not sufficient, inevitable differences in access to services between the well-off and the poor emerge, and if the government does not invest in social contracting, those differences will not be rectified.

- **Emerging (Mediterranean and CEE):** In the Mediterranean countries (for example, Greece, Cyprus, and Portugal) and most Central and Eastern European countries, the relationship between the government and CSOs in the area of social services provision and policy making is still evolving. It has been characterized by low levels of public funding; either neglect of CSOs or dependency relationships; traditions or nepotism or political interest in funding and involvement of CSOs in service provision. Models of social services provision are typically residual, as well as rudimentary. This means that ‘care’ mostly remains with the family and social nets (which has specific implications for women who bear the brunt of the care-giving burden). However, as the countries’ economy and CSO sectors develop, they will be likely to converge towards one of the three models described above.³⁶

The existing models of government-CSO cooperation in social services provisioning may provide important guidance to policy makers in terms of involving CSOs in social contracting mechanisms. The following questions could guide the decision making on the best suited modality for service provision involving CSOs:

- Is there, or should there be, an overall policy document that may give guidance to all levels of government on how they could cooperate with CSOs?
- Is the government aiming to involve CSOs in policy development and what are the institutional arrangements for participatory policy making?
- What is the current capacity of the CSO sector to undertake social services? What would be sufficient or the desired capacity?

³⁶ E.g., Hungary and the Czech Republic seem to be moving towards the corporatist model; while Estonia and Slovakia tend toward the liberal model, and Slovenia and Latvia towards the Scandinavian model.

Figure 1: Models of government – CSO relationships in Europe

Source: *Public Financing of Non-governmental Organizations in Europe*, ECNL
 PF = Percentage of public funding in total income of the sector

- What is the current and what would be the targeted levels of public funding of the CSO sector to ensure the access, continuity and quality of social services provided by CSOs? To what extent is such funding sustainable?
- Does the government consider supporting complementary services, while reserving the basic social services provision to its own institutions?
- Or is the government also planning to involve CSOs in the provision of basic social services, building on their comparative advantages?
- What would be the central principle around which social contracting would be organized?
- What would be the role of CSOs in monitoring government social services provision?

II.5. Government financing of non-state service delivery³⁷

II.5.1. Main financing mechanisms

There are three main mechanisms used to finance social services delivered by private providers in most European countries. This can happen through providing **budgetary support**, i.e. subsidies or grants to the non-state service provider; **contracting out** the service; or providing so-called **third party payments** (see **Table I.**). The purpose of each of these forms is somewhat different. Support through grants and subsidies is typically used to promote imple-

³⁷ This section of the Handbook builds strongly on Chapter III of "Public Financing of Non-governmental Organizations in Europe", by Nilda Bullain and Katerina-Hadzi Miceva, ECNL, 2010 (under publication). Quotes are taken with permission from the authors.

mentation of a government policy or foster innovation, and they may also serve to support the existence and functioning of organizations receiving the funds (see examples below). In the case of contracting, the government “commissions” a specific service, ideally through a procurement or another competitive tendering mechanism. In the case of third-party payments, the government essentially delegates the provision of the service to an outside provider, based on set prices, quality and other criteria set by the law or the government in advance.

It is important to note that in all cases, there is a *possibility for co-funding*, in which case other resources complement government financing of the service. Typical sources of co-funding may include (among others):

- International and domestic donors,
- Fees from the service beneficiaries,
- Other government sources (for example, a central support fund)³⁸
- Other income of the private provider (for example, investment income or income from economic activities).

Furthermore, the three main forms of financing non-state providers are *not mutually exclusive*. In fact, most European countries use all three forms in practice in various fields of service provision.

Finally, it should be noted that while these forms of financing can be applied for non-state providers from both the for-profit and not-for-profit sectors, the following elaboration is primarily focused on funding CSOs.³⁹

Budgetary support

The most widespread form of financing CSO activities, including social services provision in the CEE region is that of providing **budgetary support**.⁴⁰ The two main forms of such monetary support are subsidies and grants (there can also be in-kind support provided; for example, premises to house the service).⁴¹

(i) **Subsidies** are a form of support for certain civil society organizations, and are often provided in the form of institutional support. In the case of subsidies, there is usually no competition and the obligation to provide the service might even be part of a mandatory task defined by law. In many countries of Central and Eastern Europe and the CIS, subsidies are given to different unions as representative organizations of social groups, such as people with disabilities – for example, the Union of Blind People, Union of Deaf People and others – due to historical and other reasons

During the period of state-socialism, all social functions were performed by the state. In order to better access certain vulnerable groups, the government helped to establish and sustain representative organizations of people with disabilities, of women, and other similar so-called public associations/ federations.⁴² The state fully or partially funded their activities. It is important to note that the funding was not allocated based on projects or any form of result-based plan. Some of these organizations, like the representative organizations of people with disabilities, later became partners to the state in different consultative bodies related to social policy.

³⁸ Such funds exist in several CEE countries, e.g. the National Foundation for Civil Society Development in Croatia, the Social Innovations Fund in Serbia, the National Civil Fund in Hungary (as of January 1, 2011 called the National Cooperation Fund) etc.

³⁹ Most forms of course apply also to for-profit providers should they be included in the social contracting scheme. For financing mechanisms specific to for-profit providers, including the PPPs, see section III.4.

⁴⁰ This is understood as funding support provided from the budget to CSOs, not as funding provided to the government by international donors.

⁴¹ *Id.*

⁴² In other cases, as in the case of writers', artists' or journalists' federations, the goal of such support was rather to ensure ideological control over “civil society” organizations. The term often used for such organizations is government organized non-government organizations – GONGOs, and they are still in existence in all the countries of the region.

Therefore, in a more current narrative, it is considered that the state supports them because it needs consultation partners that represent the interests of their target groups.

It must be noted that the subsidy model is less favored from the point of view of transparency and accountability of public funding, as it lacks the advantages of open and fair competition, as well as any performance measures accompanying the funding that would ensure “value for money” (*see below*). In addition, over time it develops a layer of CSOs that are in a “privileged” position since they receive unconditional government funding. Newly established CSOs cannot access the same level of unconditional funding (take for example, newly created organizations of people with disabilities). The subsidy model becomes in that situation a barrier to fair and transparent support and equal treatment, as it perpetuates the division between the “old” and the “new” CSOs, regardless of the need and the efficiency of the services that they provide their constituencies.

(ii) **Grants** are a form of support to CSOs from the central government or local budgets. In contrast to subsidies, grants usually imply competition for funding. CSOs are typically funded to carry out a specific project which has strictly listed activities, deadlines for execution and an itemized budget, i.e. reporting is based on whether money was spent in accordance with the proposed budget. In case of grants, the state usually has no specific requirements as to the exact activities that should be carried out.⁴³ While announcing the grants to the competition, the central or local government usually defines a general goal or a more specific objective that should be accomplished, and it is up to the individual CSOs to propose ways/activities through which

these goals can be achieved. In this way, the state actually gives CSOs the option of proposing their own ideas, rather than impose specific activities, thereby opening up the space for social innovation.

Grants are the most common mechanism for providing support to the civil society sector, supporting innovative ideas and promoting innovative services. They are not as effectively used for supporting ongoing service provision, given the project-based and time-limited nature of the grant. Services need to be provided, regardless of whether the project has ended, as the beneficiaries need continuity in services. Therefore, CSOs relying solely on grants for social services provision usually struggle to continue providing the service in a funding gap, which is a problem not only from the CSO perspective, but more importantly, from the beneficiaries’ perspective. Grants are also more susceptible to budget cuts than other financing mechanisms.⁴⁴ CSOs that have a regular revenue source (for example, a long-term government contract or income from service fees) are better suited to provide social services, as they can ensure uninterrupted services to their beneficiaries.

On the other hand, grants are typically easier to administer than other financing mechanisms, such as contracting or third-party payments as shown below. Therefore, in countries that are not yet ready to introduce a complicated scheme of financing in the delivery of social services by non-state actors, grants to CSOs may be a good solution to bridge the gap between the existing needs and provider capacities. This is illustrated by the fact that in all the three countries examined in this Handbook, grants are a key mechanism for supporting social services.

⁴³ However, there may be standards related to the activities and services supported by the grants, which are set in different laws (*see Section II.7*)

⁴⁴ Struyk R., *Contracting with NGOs for Social Services: Building Civil Society and Efficient Local Government in Russia*, 2003, p.3.

At the same time, governments (both at the central and local level) should recognize that beneficiaries need the services on a continuous basis, and therefore it is necessary for the state to ensure that service providers have ongoing access to resources to provide services in the long term.

Contracting/ service procurement

In case of **contracting or service procurement**, the state or local authority should know exactly what it wants to receive as a service (for example, providing day-care services to 10 children with learning disabilities for a three-year period, or operating a district family help center for five years). This requires an understanding of the dynamics of demand for the service and how it may change in the coming years. The purpose of the contracting process is to make sure specific services are provided to the beneficiaries, ensuring best quality at a reasonable price. The term 'contracting' itself derives from the fact that there is a contract between the parties, listing the obligations of each party clearly. In relation to the contracting mechanism, it is important to note that the contracting of social services is *not* usually carried out under the usual procurement mechanism, given the different nature of the social services to be provided, as well as in the case of CSOs, different characteristics of the service providers.

There are different ways in which services can be contracted.

(i) Most commonly, the central or local government will have a **tender competition** and in this process evaluate the different offers and choose the best candidate. In this competition,

service quality is of key importance, so price should not be the single most important criterion on which offers are evaluated. Selection principles may include:

- **Economy** – Careful use of resources, time or effort to ensure the acceptable levels of public expenditure (this is closest to the lowest price principle).
- **Efficiency** – Delivering the same level of service for less cost, time or effort ("lowest price for a given quality").
- **Effectiveness** – Delivering a better service or getting a better return for the same amount of expense, time or effort ("highest quality for a given price").
- **Value for money** – Essentially a combination of the above three: the optimum combination of project or service life-cycle costs and benefits that meet the tenderers' needs⁴⁵ ("highest quality for the lowest price").

In most social contracting, the last two principles are applied. Often the amount budgeted for a certain service is set and the bidders compete to provide the highest quality for that price. Overall, the 'value for money' (or 'best value') principle is considered as best practice in providing social services through mixed modality (services provided by both state and non-state actors). This approach requires a comparative analysis of all relevant costs and benefits of each proposal throughout the procurement cycle (whole-of-life costing).

It entails an integrated assessment of technical, organizational and pricing factors, such as *reliability, quality, experience, reputation, past performance, cost/fee realism, and reasonableness*.⁴⁶ It may also include social and environmental impact, risk considerations, and other

⁴⁵ UNDP Procurement Guide, <http://content.undp.org/go/userguide/cap/procurement/principles/>

⁴⁶ *Id.* This is especially important when comparing profit-oriented and non-profit service providers, as there is often relative advantage in the efficiency of for-profit providers when calculated simply on the basis of cost per consumer, but the cost advantage quickly fades when considerations for the quality of care are introduced. See Gilbert, 2006

strategic objectives as defined in the procurement plan. The evaluation process will assess these factors by their relative importance and the award will be given to the provider with the highest overall value.⁴⁷

In order to be in the best position to determine value for money when conducting a procurement process, the requested documentation needs to specify the relevant information and conditions for the evaluation criteria, which will enable the proper identification, assessment and comparison of the costs and benefits of all submissions on a fair and common basis over the whole procurement cycle.

(ii) Instead of opting for a competitive process, the contracting body can directly enter into **negotiations** with potential providers. This can happen when there are not enough good candidates or there is a provider who already provides services and has the necessary professional qualifications, experience, premises and technical equipment which the municipality would require in the service provision. Sometimes, negotiations are also used as a second stage after a tender competition.

(iii) A third mechanism is to provide the services in **partnership** – when the provider (usually a CSO) secures part of the funding through other sources (usually an endowment, its own income, or in the case of non-EU countries, international donor funds). (See the country case study of Armenia for more on this.) Well-regulated partnerships, i.e. the Public-Private Partnership (PPP) arrangements are a distinct financing mechanism, and in the “old” EU member states, they are also being used for contracting social services. However, given the

complexity of the fiscal and regulatory frameworks needed for PPPs to be effective in the field of social services (as opposed to infrastructural investments), in the new EU member states and especially in the CIS countries, such arrangements remain a longer-term ambition. See more on PPPs in **section III.4**.

Third-party payments

Another way of financing social services through non-state providers is through **third-party payments**.⁴⁸ In the third-party payment scheme, the government is the “third party” that pays for the cost of the service provided by the CSO to the beneficiary – either directly to the CSO as in per capita payments, or through the beneficiary as in voucher payments.

(i) **Per capita payments**, sometimes called “normative” payments (as they are determined by certain norms in terms of service standards and price) are most often used in maintaining social institutions, such as homes for the people with disabilities, institutions for children without parental care or residential homes for the elderly. In these cases, the government essentially delegates the management of the institution to the private provider, while retaining the responsibility for ensuring the continuity and quality of service provision. The government will usually set the standards and rules by which the institutional services should be run. To that end, *licensing* will be used to ensure that only those who qualify as compliant with these standards can become service providers. The government will also determine the cost of the service, which is usually done

⁴⁷ A simplified method to define and calculate best value is to quantify quality and price of each proposal relative to each other, where the award will go to the offer of the highest quality at the lowest price.

⁴⁸ There is some debate in the terminology relating to this concept as most CIS and CEE governments consider it a subsidy, rather than a compensation (i.e. payment) for services provided. This determination stems from the Soviet times, when the government exclusively provided subsidy type support to both lower levels of government and non-governmental entities. In many countries, legislation still refers to this type of payment as a subsidy support. In our view, however, the ‘third-party payment’ terminology needs to be promoted in order to help change the way governments view non-state providers.

on a per capita basis, and the CSO will be reimbursed based on the number of clients it serves. Since the fee is established by the government, it may not match the actual costs of the service of any one provider (it usually does not); therefore, the issue of who bears the financial risks will be of importance. The method of verification of the services provided (given that the payment is based on service volume) is also important to ensure that the beneficiaries gain access to the services they are entitled to, as also to prevent any misuse of funds.

(ii) The **voucher mechanism** is used more often in non-institutional types of services and focuses on the choice of the beneficiar-

ies or clients. In this system, potential beneficiaries receive vouchers that entitle them to use certain services free of charge. For example, a person with a disability can visit a physiotherapist twice a month and the beneficiaries get to choose their own therapist. There is usually a preliminary approval of all the specialists who are licensed/ approved to provide these services. Based on the vouchers collected by each provider, the state transfers a fixed fee for each client served. From the rights-based perspective, voucher mechanisms are value-added, as they offer the freedom of choice to the users of services, rather than presenting them with ready-made solutions.

Table I: Financial mechanisms to fund private providers for service delivery

	Grants and support	Procurement and contracting	Third-party payments
Aim	Implementation of government policy	Providing services to the government	Providing a government service
Terms of contract	Set by the government	Set by both parties (though dominantly by government)	Set by law
Key selection principle	Best ideas and project plans	Highest quality at the lowest price	Fulfillment of legal requirements
CSOs funded	Several applicants	One bidder	One or more licensees
Type of activity financed	Generally any activity proposed by the CSO that fits program goals ⁴⁹	Typically services	Services described in regulations
Cost structure	Project budget	Fee based budget	Budget according to regulations
Indirect costs related to the activities	Percentage of project budget	May be fully covered in fees	General overhead % set by law

Source: Public Financing of Non-governmental Organizations in Europe, ECNL

⁴⁹ Certain tenders usually have specific limitations, e.g. one will not support conferences, another one will not support scholarships etc. Also tenders may be limited to specific fields (e.g., health) or specific types of CSOs (e.g., public benefit CSOs). In addition, most grant programs do not support investments.

Grants can be provided by local authorities at the local level, or at the national level by the government directly (by each line ministry or by one ministry for all areas), or through a separate fund or foundation set up for that purpose (as is the case in several Central and Eastern European countries including Hungary, Croatia and Estonia). Funding for an independent fund or foundation set up by the government to support CSOs may come from the budget annually or could be provided in the form of an endowment when a larger amount of money can be allocated for this purpose (an example of this is the setting up of the Foundation Investment Fund in the Czech Republic, where 1% of privatization income was provided as endowment to foundations). An interesting model in Kazakhstan is the BOTA Foundation – a foundation that was set up with money transferred to a Kazakh government bank account (in a Swiss bank) from an unclear source. The money was originally frozen by a US court. The three governments decided that the best way out was to set up a foundation with the money (initially 84 million USD) to provide grants to CSOs, and also offer direct assistance to certain categories of vulnerable groups.

II.5.2. Common principles for financing of social services

Regardless of the mechanism used, the central government should *ensure that there is adequate financing for the statutory services* even if they are to be provided by the local governments. This can be done through direct budgetary transfers and/ or by enabling the municipalities to generate their own funding (levy taxes, charge users, borrow and invest etc.). In terms of direct transfers from the central budget, the state may finance social service provision at the municipality/ community level in two ways:

- The state includes the cost of social service provision among all the expenditures of the municipality that the government compensates for on a per capita basis;
- The state determines and transfers the cost of (certain) social services separately, specifying the purpose towards which it could be spent (earmarked funds).

For social contracting, the second method is important, as in this case the municipality could

“simply” transfer the amount received from the central government for the provision of certain social services to the contracted service provider.⁵⁰

As for *optional services*, they can also be financed by the central government, usually through specified support programs, such as a fund or a ministry allocation for the given service. For example, in Hungary when personal assistance for people with disabilities was included among the optional services that the municipalities could provide, the Ministry of Social Affairs created a special fund to encourage the establishment of such social services across the country at the level of municipalities. Local governments, as well as CSOs, were eligible to apply for the funds.

In the CIS and more generally the CEE countries, devolution of responsibility for providing social services is not always accompanied by designated/ earmarked funding for the service from the central budget. Yet, not all communities are able to finance the services by themselves – sometimes not even the statu-

⁵⁰ It should be noted, however, that based on the experience of the new EU member states social contracting can be challenging when the municipality contracts a CSO for a service that is funded from the central budget, since it usually involves a large amount of bureaucracy and payment delays.

tory ones. In many cases, CSOs are needed not only to provide social services, but also to compensate for the lack of funding at the community level by bringing in additional resources to make service provision possible, or to ensure that the services are being provided at the level prescribed by the national standards.

Another important factor when speaking about financing services is *the time horizon for which funding is provided*. Social services directly affect people's lives and, therefore, the continuity of social services' provision is of utmost importance. Unlike some other services, most social services should be provided on an ongoing basis because the needs which they target are constant. That is why there is a need for securing long-term, uninterrupted funding for the social service provision. The legal framework should thus make it possible for the authorities to commit to multiple-year funding of the services. This issue is discussed in more detail in the specific case studies (for example, the system in Kazakhstan).

Further, in the case of social contracting it is crucial to make a precise definition and *analysis of the unit costs*, i.e. a specification of what the public agency is purchasing – the units of social service (for example, number of clients, hours spent with a client, number of beds etc.), and how much each of these units cost.⁵¹ The proper calculation of unit costs is the basis of an effective contract. Therefore, the regulatory framework should make it possible (if not mandatory) for the competent bodies to calculate unit costs for state financed social services. In the case of third-party payments, these unit costs are usually determined in governmental regulations. However, it should be not-

ed that defining the unit costs is a complex and multi-disciplinary task, and the expertise for such calculations is largely missing in the region.

II. 6. Key considerations in the regulation of social contracting

Possibility to contract out services

In terms of the basic regulatory framework, it is of essential importance that there is the *legal possibility to commission the provision of social services to a non-state entity*. In other words, the authority that has the responsibility to take care of social service provision (whether at the central, regional or local level) should also have the right to commission the actual provision of the services (i.e. running the service) to a non-state entity. The possibility of commissioning social services is not always straightforward, even if it is not forbidden, especially in this region where “anything that is not allowed is prohibited”.⁵² It could be considered good practice to include a provision explicitly allowing the possibility of contracting the services to non-state providers.

The regulatory framework should also be clear on *who the potential non-state providers* might be. Most commonly any not-for-profit or for-profit legal entity or individual entrepreneur may undertake social services provision (subject to further conditions set out in the law such as certification, etc.). However, countries may choose to limit the pool of non-state providers to not-for-profit actors, for ex-

⁵¹ This is especially important when comparing profit-oriented and non-profit service providers, as there is often relative advantage in the efficiency of for-profit providers when calculated simply on the basis of cost per consumer, but the cost advantage quickly fades when considerations for the quality of care are introduced. See Gilbert, 2006.

⁵² In the CEE/CIS region, the continental legal system that requires any binding obligations to be written in law, combined with a cultural legacy of authoritarian rule has resulted in a legal culture in which people often perceive, and public authorities often consider, any activity that is not explicitly allowed by law as illegal.

ample to churches and/ or CSOs. In Ukraine, for example, for-profit companies are not listed among possible social services providers in addition to the state providers.

One reason why CSOs have an advantageous position in the CIS and CEE countries could be that some countries are not yet in a position to implement a full-fledged contracting mechanism with the for-profit sector, due to the complex regulatory and fiscal frameworks that this would require. When involving CSOs in social service provision, there are several means of contracting and financing them, including monetary or in-kind support for their activities, grant programs, joint projects and others. CSOs can be partners to the government in social service provision even when there is no comprehensive regulation on all the elements listed in this chapter. In the UK, on the other hand, CSOs (the voluntary sector) are preferred partners to the government in social services provision – not by law but by policy measures (The *Compact*⁵³), including support to develop their capacities in social services provision. This is due to the recognition by the government that CSOs provide important added value in the delivery of social services.

The approach might depend also on the types of the social services provided, since some services have the potential to develop a real market (most typically, homes for elderly) and hence there will be business interest. In Hungary, when the government sets the unit cost of the institutional care of an elderly person, the government-maintained residential institution will be covered by 100% of the cost, and a CSO will receive cca. 70%, while a for-profit company will receive only 30%. This is so because the government assumes this service to be profitable and expects the company to use its profits to co-fund the social service. Overall, however, most social services do

not have such potential, which is another key reason why CSOs (including faith-based organizations) are more typical partners of governments across the region.

Legislation may also differ in terms of service areas. Social contracting may be allowed for social welfare services, but not for health services, and it may or may not be allowed for education services. Such differentiation gains importance when looking at social services that cut across two or three policy areas – for example, education of children with learning disabilities or home assistance for the elderly (c.f. integrated services).

Procedures for contracting out

Further to the possibility of commissioning the actual provision of social services, a *clear regulation of the procedure of how this process is conducted* is also needed. The reason why social contracting does not take hold in countries where it is otherwise not prohibited is most often the lack of clear procedures for arranging the transfers⁵⁴.

When there is central government funding involved, the procedures will normally have to be regulated at the central level even if the authority to commission the provision of social services, and eventually, the funds, to a non-state provider vests with the local government. On the other hand, local governments can usually regulate the procedures for the commissioning of social service provision and accompanying funding from the local budget (as in Odessa – see *case study of Odessa municipality*).

Central to the procedures on social contracting are the principles of open and fair competition, transparency, and accountability in

⁵³ See www.thecomcompact.org.uk

⁵⁴ Based on the field research, this is the case for example in Armenia and Moldova.

spending public money. There are different forms to financing non-state provision of social services, described above in **Section II.5**. A common question related to the procedures is whether the government can use the general procurement rules in purchasing social services. The answer to this question is that while recognizing that each country has somewhat different rules for procurement, the general procurement rules are usually not fully suitable for purchasing social services. Rather, they can serve as a basis for the regulation of social contracting. The most outstanding distinction is that in the case of social contracting, price alone should not be the only key factor in selecting the service provider. (If it were, the commissioning body would have to determine the services in extreme detail to ensure quality and to be able to capture any added value for the service beneficiaries that it would expect from the service provider). More on this issue is included in the case study of Kazakhstan.

For a detailed overview of the procedure of social contracting please see Annex 1 – Checklist Guide for Introducing a Social Contracting Mechanism at the Local Level.

Standard setting and assessment of providers

Another common aspect of regulation in relation to social contracting are the issues related to setting standards for social services provision, and assessing service providers according to those standards. Standard setting is a time-consuming exercise that is best done with the broad participation of both service providers and beneficiaries. In service areas where there is a strong professional community, this community could take the leadership in developing the standards (as it has been the case in some CEE countries, including Hungary and Serbia). This process requires much patience and close coopera-

tion among all the stakeholders, as a lot of contentious issues are involved. From a regulatory point of view, it is most important to be clear on the purpose of developing the standards:

- Will they serve as a basis for allowing or not allowing service provision, thus being of a prohibiting nature, or will they serve as a basis for providing government funding to those who seek to receive it?
- Should governments aim to establish minimum standards for social services or aim at excellence?)
- Who will assess the service providers and what kind of process will be used for the assessment?
- Who will monitor and supervise the service providers, and what will be the sanctions for non-compliance, etc.?

Assessments happen most commonly through certification, accreditation and licensing. While there is no universally accepted definition of each of these terms, the laws on social services generally make distinctions along the following lines:

- **Certification** refers to the person providing the social service (i.e. a social worker, child protection professional, nurse, etc.). Such a person needs to fulfill certain educational and professional criteria as defined by law or relevant regulation in order to be allowed to engage in the service provision.
- **Accreditation** refers to the service (for example, personal assistance, day-care, soup kitchen), which is being assessed against standards set out by law or relevant regulation. If the service complies with the minimum standards, the social services will be accredited by a dedicated body. (In case of excellence standards, there are usually different standard levels that can be achieved.) Accredita-

tion of the service could mean that the service provider is allowed to provide a specific social service, and/or that the provider is entitled to receive the government funding for that social service. Accreditation criteria may include the certification requirements of service personnel.

- **Licensing** refers to the organization (institution, CSO, company) that runs the social service and which has to fulfill certain criteria as set out by law or relevant regulation (for example, related to its governance, internal policies, physical infrastructure, safety and hygiene, financial management, etc.). The provider may only run certain services if it is licensed to do so. Licensing is mostly used in the case of institutional services. Licensing requirements will usually include accreditation of services⁵⁵.

According to good practice, certification, accreditation and licensing requirements will be applicable to any service provider – be it a governmental, not-for-profit or for-profit provider. This is because the purpose of setting standard requirements is to ensure certain levels of quality of social services responding to beneficiary's needs, regardless of who provides the service.

Sometimes, CSOs funded by international donors may be running higher quality services simply due to better infrastructure – for example, a newly built or renovated building, or readily available funding. However, most often CSOs also struggle with capacity issues and the

overall problem of donor-supported social services provision is the lack of sustainability in the absence of clearly developed exit strategies. As an example, in both Ukraine and Armenia, the implementation of licensing regulation was suspended because very few CSOs could fulfill all the requirements (see *Country Reports*).

Professional standards in social services provision may also lag behind due to the lack of courses for social workers and other care professionals in higher education. In addition, in some countries, there seem to be few well-organized professional organizations (for example, social workers, child protection specialists, disability caretakers etc.) that would be able to take the lead in developing standards that would be owned by the caretaker community. The introduction of a system of professional, service and institutional standards and their assessments through certification, accreditation and licensing is likely to take some more time in the CIS.

While having quality standards for social services is important in order to be able to monitor the quality of service provision, it is important to note that *services for which there is no accepted quality standard can also be contracted out*. Standard setting usually requires that the service is predictable and determinable, leaving less room for innovation and thus efficiency gains, and less room to establish social services that are not easily predictable. For example, CSOs may detect from their other ongoing family services the need for a service to help victims of domestic violence. However, initially it will be hard to predict how many users there may be,

⁵⁵ In many countries, there is also a basic requirement for any social service provider to register with a competent authority at the national level. Such registration will be formal, without an in-depth assessment of the capacities of the provider to conduct specific types of services. It is a preliminary filter to ensure that service providers have the minimum capacity to undertake the service, and serves registry and supervision purposes rather than standard setting. As an example, in Bulgaria, all social service providers should have registration with the Agency for Social Assistance. Registration is simple and does not place a significant burden on service providers (there is no preliminary determination of their capacity), but they should produce annual reports. The only exceptions to this are services for children; all organizations interested in providing such services should get a license from the State Agency for Child Protection.

what the level of need is among women and children, and what specific service would match the needs (a hotline or a support group or a shelter etc.). There are also some services, such as those to assist young people at risk or drug users that are hard to predict because they require constant renewal due to the fast changing environment (increased mobility, spread of IT and social media, availability of new synthetic drugs, etc.).

Contracting without set standards can be especially helpful in the case of new or innovative services in the provision of which there is no experience in the community. In such cases, it is important to leave greater flexibility to the service provider so that it can tailor the social service to match the needs of the beneficiaries. Providing a grant to the potential service provider might be even more appropriate because in that case the service provider can come up with fresh ideas as to how best to address the needs of the service's beneficiaries.

Contracting conditions

While stakeholders in the region are mostly concerned with the preparatory and selection phase leading up to the contract, managing the contract is an equally significant regulatory challenge. Regulators, whether at the central or local level, will have to address issues like:

- Payment timing and conditions (e.g. monthly, quarterly or annual, pre-financing or post-financing, co-financing – such as user charges, what is required before the next payment can be made, etc.)
- Liability issues (i.e. what liabilities are transferred to the service provider)
- Risk sharing issues and risk management (including financial risk – for example, whether there should be actual cost reimbursement or a set price, in which case the social service provider carries some of the risk)
- Quality assurance (will there be performance indicators, complaints mechanism or other incentives for increased quality)

Many of these issues need careful planning and consultation with the service providers and the likely beneficiaries of social services to develop effective regulation that takes into consideration the given context.

Monitoring and supervision

The supervision and monitoring of the social service provision is of central importance in ensuring accountability for public spending. There needs to be an authority that is responsible for the monitoring of service quality (or the monitoring of license conditions). At a national level, this can be the Ministry responsible for social policy, a delegated agency of the Ministry, or a self-regulatory body; it can be done centrally or through territorial units; it can be done according to service area or service type, etc. At the local level, it is usually done by the local government itself, but it may also use the services of a delegated government agency for this purpose.

Monitoring is especially important in the case of contracting out because, as noted above, in most contracted services the government pays the provider for social services consumed by the beneficiary, i.e. it does not have direct feedback on the service delivery. In this case, the government has to ensure that it pays for services that are actually provided (and not just accounted for) and the services match the required standards and/ or other conditions. As a consequence, there is a need for clear and objective criteria related to the social service delivery. They should allow for an objective assessment whether the service is delivered to the quality required while matching the needs of the beneficiary.

When designing the monitoring and evaluation process, the purpose of the evaluation of social service provision (and therefore, monitoring) needs to be clear. This can relate to:

- (a) Process - How public funds are spent (and whether that has happened according to the contract conditions)?
- (b) Performance - Whether the social services provided are in accordance with the standards and outcomes set in the contract?
- (c) Cost – Whether the projected costs have remained within the limits agreed by the contract, has there been overspending and in general, what are the budgetary results?

In order to be able to ensure these, a monitoring mechanism needs to be in place at the beginning of the contract and it should be built into the delivery process (for example, the contractor/ service provider should be obliged to regularly collect and provide data relevant to the monitoring body). It is good practice to involve the beneficiaries of social services in the process of monitoring and evaluation, thereby creating an opportunity for the government to receive direct feedback on the service. (This can be done, for example, through an annual survey of the target population or through direct participatory methods like beneficiary assessments). (*See more in Section VI, Recommendation #5.*)

Supervision entails not only monitoring, but also the *possibility for sanctions* in case there is a breach of the contract or the law.⁵⁶ The regulatory framework has to be clear as to what the possible sanctions are and the process through which they can be applied. The principles of due process (including the right to appeal) and proportionality (sanctions

should be proportionate to the extent of violation) have to be observed. The possible sanctions, the grounds for applying them, and their sequencing need to be spelled out in the contract.

Sanctions in the competence of the supervising authority are usually related to:

- Suspension of funding
- Withdrawal of future funding
- Payment back of already transferred funding
- Suspension or withdrawal of license or certificate
- Prohibition to participate in future tenders

When there is a serious violation involved (for example, embezzlement of funds, causing damages to beneficiaries), the authorities can also undertake civil or criminal procedures against the contractor.

II.7. Preconditions for effective social contracting

The development of a comprehensive policy framework for social contracting is a complex undertaking, depending on many factors, all of which eventually need to be in place and be harmonized. It should, therefore, be recognized that **the development of an adequate social contracting framework will happen in stages over time and will require significant upfront investment on the part of the government** in order for it to bring in the longer-term benefits that are associated with it and that can be expected to be realized.

⁵⁶ Please note that supervision here is used in terms of supervising the execution of the contract. In the area of social welfare services provision, there is also another kind of supervision which is aimed at supporting professionals to meet the quality standards in delivering specific services to their clients (e.g. speech therapy, psychological support, marriage counseling etc.).

In the following, we summarize the key conditions under which social contracting will be effective, and the lack of which will likely lead to inefficiencies and increased risks for the government or municipality. While there are many more conditions needed – not least, a clear and enabling legal environment – these are the ones that can be seen as pre-conditions, i.e. the lack of which will present a basic obstacle in developing an effective social contracting system. In this section, we are merely summarizing these pre-conditions with the purpose of providing guidance in policy planning, and with the understanding that they are further elaborated upon in other parts of the publication (*as referenced in each case*). Furthermore, **Section V on Recommendations** contains practical points to help ensure that these preconditions are met when embarking on social contracting for the purpose of the community services provision in the countries of the CIS region.

1. Authority: Local governments should have a mandate to deliver social services and the authority to determine the service needs in their community. If these are absent (if, for example, all service needs are centrally determined, or the local government cannot spend central funds based on local needs), there will be a lack of interest on behalf of the municipality to prioritize effective delivery of social services. Instead, it will be prompted to wait for the central government to prescribe the scope and method of social service delivery, regardless of the needs of its local constituency⁵⁷. See more under **Section II.2.3 on Decentralization**; as also the case study on Armenia (**Section IV.2.4**).

2. Affordability: Sufficient, appropriate and predictable funding should be available to finance the social services at the local levels. By *sufficient*, we mean that they should cover the total cost of services that are legally prescribed for the municipality to undertake; by *appropriate*, we mean that the method of transfers should be appropriate to the service needs (for example, timely advance or reimbursement payments, ability to transfer funds to the non-state providers etc.); and by *predictable*, we mean that municipalities and non-state actors should be able to foresee the levels of funding for specific services in the longer term so they can plan on meeting the service needs. For more details see **Section II.6** on financing non-state actors, **Section III.3** on impediments related to funding, as well as the Odessa case study as a good practice in funding arrangements (**Section IV.4.4**).

3. Capacity: Both local governments and CSOs need special skills and capacities to engage in social contracting. Capacity investments are a special challenge for municipalities, as they are faced with pressing needs to deliver the services, and this deters them from spending time and resources on learning new skills and elaborating new mechanisms needed for social contracting. However, social contracting is a complex undertaking and local authorities will face serious challenges without having the tools to address the complexities. In parallel, CSOs also need capacity development especially with regard to becoming more sustainable, and thus a more reliable partner to the local authorities. See more in **Sections III.1** and **III.3**.

⁵⁷ On the other hand, as noted under the section on decentralization, when public office holders (mayor, parliamentarians) are directly elected by their communities, they will be more inclined to engage in practices that further efficient social services delivery in those communities. Such a change could, for example, be observed in Hungary and Romania.

- 4. Transparency:** Social contracting will be compromised without a transparent and fair process in awarding and managing contracts. There are specific steps and good practices municipalities can undertake in order to ensure fairness and transparency, while at the same time safeguarding the effectiveness and efficiency of the process. These include, for example, the need for clear award criteria, clear contracting conditions, good reporting systems, making information public in a timely manner, etc. See more in **Section III.3.** related to the lack of transparency; good practices from the case studies in Kazakhstan (**Section IV.3.4**) and Ukraine (**Section IV.4.4**);
- 5. Accountability:** Proper accountability mechanisms need to be in place to make social contracting effective

throughout the process. Due to its complexity, social contracting involves several layers of accountability aimed at a range of stakeholders. For example, the local government conducting the tender process will be accountable to its own local council, to the central government (at least in regard of spending public funds), to the beneficiaries of the social services, to the CSO partners, and to the local community, among others. At the minimum, consultation, monitoring and reporting mechanisms should be in place including the key stakeholders, which places a significant, but inevitable burden on the local government. See more in **Section II.7.** on monitoring and supervision, as well as the case study of Astana in the involvement of the community in monitoring the services (**Section IV.3.4**).

III. The role of CSOs in social services provision

Upon familiarizing oneself with the wide and complex range of the policy implications of social contracting described in the previous chapter, one may ask: what can be so great about this mechanism that would be worth all the investment of developing new regulatory and fiscal schemes to accommodate it? In the following section, we will review the most common advantages and risks associated with social contracting so that decision-makers can assess the level of benefits they may expect from introducing this mechanism. We will focus on CSOs, as they are the most typical non-state social services providers and examine the added value and specificities of CSO involvement, as also draw a comparison with the for-profit sector. We will also explore the most common impediments to, and conditions for reaping, the full potential of social contracting with CSOs.

III.1. Considerations in including CSOs in the system of providing social services

Purpose of social contracting

The first consideration that should be made is what is the purpose of the social contracting mechanism: is it to make sure certain social services are provided, or is there also another purpose – to reach hard-to-reach beneficiaries, to include self-help groups in service delivery, or similar? Importantly, social contracting can contribute to the sustainability of the CSO service providers, thereby becoming a mechanism to provide support to the civil society sector. In deciding whether to limit the participation in social contracting procedures only to CSOs, the government has to clearly consider what the primary purpose of the process is: ensure quality of services, support to CSOs, or both. The purpose should be determined in line with the overall role envisioned for CSOs in the service provision (as also in the light of the models of CSO-government relationships described earlier).

CSOs can fulfill multiple functions in relation to service provision⁵⁸:

- Representing the interests of vulnerable groups (for example, people with disabilities, single mothers, people living with HIV/AIDS, etc.). That is why they are usually the ones that are most vocal about the need to provide the appropriate social services for such groups. Being closer to the beneficiaries, they are also really helpful in designing the services, since they are most familiar with the needs of the target groups;
- Providing complementary or alternative services, services to under-served groups of people in need for social services, and developing/piloting new services that in the future the government might adopt⁵⁹;
- Potential contractors for government services – contracted to provide on behalf of the government.

In the social contracting mechanism, does the government – at the central and local level – aim to take advantage of all three functions? The mechanisms for social contracting will need to be developed accordingly.

CSO capacities

Another important issue that has to be taken into consideration when deciding how to structure the process of social contracting to CSOs is related to the existing CSO capacity. This can be considered at three levels: (i) as a sector, (ii) at the level of the municipality (or other territory covering the scope of the intended social service), and (iii) at the level of the individual CSOs.

- (i) At the level of *the CSO sector*, the capacity to provide social services may vary across the country. Most probably there are no CSOs providing social services in some areas of the country. In Ukraine, for example, one interviewee⁶⁰ commented that the majority of CSOs only provide services at the *oblast* level or at the level of larger municipalities, and there is a lack of CSO providers at the local level. At the same time, *oblast* level governments cannot engage in social contracting, given that they have no freedom to spend their own income as municipalities do (*see more in Ukraine case study*).
- (ii) At the level of the municipality, it is important to understand the “*market*” for social services. Even though this is not (usually) a for-profit undertaking, there can be a quite complex “*market*” developing at the local level: a range of CSO providers, various donors including the municipality, and the beneficiaries who are sometimes able to pay a contribution as well. The existence of a *suppliers’ (service providers) market*, i.e. multiple CSOs providing services is key to effective social contracting; without a market there is no competition, and without competition most of the benefits generally drawn from contracting out services could be compromised.

The locally designed system should allow the specificities of the local supplier market to be accommodated for. For example, in the case of an existing service where large investments were made by a CSO, there might be a possibility for uniting the efforts with the local authorities (through a negotiated tender or partnership). On the other hand, there should be a possi-

⁵⁸ Classification by ECNL.

⁵⁹ For example in Serbia, the service of personal assistants for people with disabilities was piloted by one CSO before the decision was made to bring this service up to scale and include it in the new law on social protection.

⁶⁰ Director of Everychild Ukraine

bility to break a monopoly if the social services provided are not of good quality or are too expensive.⁶¹

Maintaining competition is generally easier through grants (open tenders for project or time-limited institutional support), and more difficult when the municipality contracts out a service properly, as in the CEE/CIS countries there may not be several providers of the same types of services for the same population (for example, donors don't like duplication and tend to avoid supporting two CSOs with similar profile in the same area). However, as the Odessa example illustrates, the strategy of investing in social services market development (i.e. capacity building of CSOs) through grants can be successful; when the market is "ready", proper contracting out of services can follow.

- (iii) At the level of *individual CSO capacities*, the expected level of human and material infrastructure needs to be determined in the conditions for the contract award. Many CSOs might not have the financial capacity to invest in pre-financing a social service, even though they may have highly skilled personnel and quality expertise. Alternatively, the CSO may be financially well positioned, but may not have the capacity to deliver the expected benefits such as higher efficiency or higher quality service. The municipality has to contemplate the main risks, costs and benefits involved in these cases.

Local government capacity

As well as capacities of CSOs, the capacity of local government needs to be considered

when designing a system to involve CSOs in the provision of social services. As can be seen from this Handbook, contracting out requires significant resources and a specific set of new skills on part of the local government. Naturally, it requires the financial resources dedicated to fund the contracted services. It also demands certain capacities in human resources, including the competence and ability to:

- Assess needs and design appropriate services at the community level (as well as at the institutional level if applicable);
- Assess the supplier market and develop a long-term strategy for contracting; design and implement the local procedure for contracting out;
- Develop the process of assessing the offers provided by the potential non-state service providers;
- Manage the contracts;
- Monitor and evaluate service provision; and
- Incorporate the learning into the new cycle of contracting.

In order to achieve this, the local government needs to invest into training its employees and/or council members so that they can fulfill such requirements. This is a very important issue to address because without the necessary capacity even the best social services system will not be properly implemented. At the same time, there is ongoing and immediate pressure on the local authorities to deliver services to meet the current needs. For this reason, the timing of training/ capacity building activities becomes a problem – with constraints on resources, local governments tend to spend their usually scarce resources on meeting the current needs, which in turn delays the possibility to reform the inefficiencies of the social serv-

⁶¹ This may often be the case with so-called "old-style" CSOs, such as federations of people with disabilities or certain illnesses, referred to also under the subsidy model in Section II.5. These CSOs provide services to a wide range of beneficiaries, but the services are often inadequate, not following the professional developments and not responding to the changing needs of their users.

ices provision system. This dilemma can be overcome by introducing a gradual and sequenced approach in social contracting (see more in **Section VI, Recommendation #6**).

Overall relationship between the CSOs and the state

CSOs should be considered as genuine partners by the government. That is why the overall relationship between CSOs and the state is an important factor of the extent to which social contracting is developed. CSOs are the most typical social service providers and usually the ones that are viewed as the best partners in the process. Therefore, feeling of mutual respect or hostility between the municipality and the CSOs is of key significance, impacting the way the social contracting process develops. When there is tension in the relationship, whether at the central or the local level, it is more difficult for this concept to take hold. On the other hand, in countries where there is a written **policy document on cooperation between the government**

and CSOs, (for example, a strategy for civil society as in Ukraine), as well as a general recognition of the value of the CSO sector in addressing development needs, social contracting will likely develop faster. Experience shows that the existence of a central level policy encouraging partnership can help in developing local versions of it, thereby enhancing successful partnerships at the local level.⁶²

Laws affecting CSOs

There are certain legal prerequisites which should be in place in order to ensure the effective participation of CSOs in the social contracting process. Listed below are several key issues that should be considered when designing the contracting process:

- CSOs should be allowed to operate in the social area. An example of a prohibitive environment (in a slightly different context) is Bulgaria, where legislation does not allow for CSOs to provide healthcare services.

Serbia: The Social Innovation Fund

The Social Innovation Fund (SIF) is an example of how local partnerships can be fostered through targeted support. SIF was created in 2003 in Serbia as an initiative of the Ministry of Labor and Social Policy in order to support social reform and the provision of social services throughout the country. Its purpose was to stimulate the creation of community-based services, which fell under the mandate of the local authorities, but they were very slow in creating such. With the help of the SIF, more than 100 municipalities started such services. The evaluation of the activity of the SIF conducted in 2010 showed that most of the services supported under the SIF were new and did not exist before the support provided by the Fund. An important experience of the SIF was the clear system of monitoring that was set up. This is also an example of how states can partner with CSOs because six CSOs were engaged in the monitoring and evaluation process.

Source: UNDP/Foundation for the Advancement of Economics, Belgrade: Assessment of Results of the Social Innovation Fund, 2010

⁶² Such experience comes from, among others, Ukraine, Hungary, and Croatia. See Bullain-Toftisova, 2005.

- CSOs should be allowed to carry out economic activity because sometimes social contracting might be interpreted as a form of economic activity. Even if this is not the case, economic activity is an important source of additional funds for CSOs who can use it to improve their service or provide the service to more beneficiaries (with the same investment on the side of the state).⁶³
- CSOs should receive other incentives/support from the state, such as tax benefits for their donors, because this is also a form of indirect support for the core mission of the organizations, which ultimately has a positive impact for the beneficiaries of their work – the clients of the social services that CSOs provide. In essence, they help correct market and government failures, which can be considered as public good⁶⁴.
- Another important factor is the possibility of CSOs to receive state funding in the form of grants, subsidies or even contracts, to allow them to pilot innovative social services. CSOs are “factories for ideas” and the state can use them to test innovative approaches to existing problems or piloting new programs before scaling them up at the national level (see below).
- CSOs should take part in the design of the social protection system and the planning of the social needs, as well as in discussions related to the state social policies. This should be defined in the law.
- The state should allow for service providers to build their capacity (including by allowing them to use the state funds as they see fit, so long as they provide the necessary quality services). In case there is a saving from the money transferred for the social service (and

not at the expense of the quality of the service), CSOs should be allowed to use the leftover funds for developing the service, instead of returning them to the state/local budget.

III.2. Advantages of CSOs as service providers

CSOs are close to the problems

Many CSOs work on a daily basis with the beneficiaries of social assistance and social services in the community. This “*embeddedness*” of CSOs in the local community and profound understanding of the problems that social services try to address is a key factor for success. They are often the first to detect a problem, or to understand its root causes. Furthermore, since they are well acquainted with the specificities of the local context, they can better plan the resources they need and the services they need to provide. CSOs can also *reach difficult to reach groups of beneficiaries* – for example, the long-term unemployed who stay at home, street children, HIV-AIDS affected population, women and children suffering from domestic abuse, ex-convicts, etc.

The authorities often consult CSOs, as they are closer to the problems to better identify the needs in the community and adequately plan the social services to be provided. The participation of CSOs in social service design is used as a channel to help hear the voices of the people in need of social services. It also helps avoid overlaps and lack of coordination in service provision in cases when CSOs provide social services that are funded by international donors. CSO consultation and coordination of activities between the government

⁶³ Economic activity for CSOs is not allowed in Armenia (see country report).

⁶⁴ In addition, there should be no taxes on the funds that the state transfers to CSOs such as corporate income tax.

Ukraine: Alisa Society

An example of innovative thinking and services is the Alisa Society. [...] The NGO was conceived in 1991 at the time of perestroika when its founder, herself disabled, saw an opportunity to help people with physical disabilities. Initially, the Alisa Society sought to clothe and feed disabled people, but quickly learned that humanitarian efforts created dependence on handouts.[...] In 1997, the Alisa Society changed course and reformulated its mission as the 'social and economic rehabilitation of people with disabilities'.[...] The NGO started to recruit disabled people with business ideas who wanted to start and run a social enterprise. Three of Alisa's clients took on the challenge of starting a business based on their ideas and credentials. Each received basic business training and a small amount of start-up capital before taking their ideas to market. Alisa's first enterprises are in computer training and software; appliance manufacturing and sales; and architectural design. Today, two of the three original businesses are successful and continue to be operated by their founders. The third entrepreneur closed the appliance business due to high production costs and slim margins, but then opened an advertising and design firm.

Source: UNDP, EMES European Research Network Project, *Social Enterprise: A New Model for Poverty*

and CSOs helps both sides share the information they have and jointly achieve improved outcomes for the beneficiaries of social services. In addition, CSOs can achieve their objectives better when working in partnership, ensuring buy-in from the local authorities (which may not happen if they work independently). Finally, CSO "embeddedness" also leads to increased community ownership of the social services and the results achieved, while opening up the space for service beneficiaries to have a voice.

CSOs are a source of innovation

CSOs are a source of innovative ideas and good practices which the government can use when designing new social services, as also reforming the existing ones. This is due to several reasons, such as CSO specialist knowledge (*see below*); openness to new, more effective ways of achieving their missions; and their ongoing commitment to meeting beneficiary needs. CSOs are also often well connected to the international networks and are therefore well positioned to facilitate knowledge ex-

change and adapt models that have worked in other contexts. They often develop a new social service, which then the local authorities take over and start supporting. In addition, CSOs develop or implement innovative services in pilot communities which the government can scale up to the national level if the results of piloting are positive and the national coverage is needed. In such cases, CSOs may still continue to be involved in the provision of services if appropriate. (*See the example of Hopeful and Homeless NGO in Ukraine.*) CSOs also work on problems that the government has no capacity to address. At the same time, once the problem has become visible and recognized, it is normal for the government to turn for assistance (or provision of specific social service) to the entity that knows most about the issue and is often best placed to address it – the CSO.

CSOs have specialist expertise

While the local government needs to run a range of public services for the whole population, CSOs usually focus on one service area

or one target group and that becomes their specialty. This means that they have, often unparalleled, specialist knowledge related to that area or target group, and therefore are in the position to develop very effective methods for delivering the social services in that field. For example, they may learn special ways of communication with the target group; they may find ways to make the social service more efficient; and they may be aware of the latest methods to address the specific needs of the target group⁶⁵. Specialization is therefore a key driver of innovation as well. Ultimately, due to their specialized expertise, these CSOs provide higher quality services – but this may also create a monopoly in the market (so-called niche monopolists).

CSOs are flexible

Another important factor related to the way CSOs operate is that they are flexible and so can better accommodate to any changes in the environment or the needs of the benefi-

ciaries. This can increase the quality, effectiveness and efficiency of the social service in several ways. Flexibility also means CSOs are less bureaucratic, so people often turn to them for services, rather than opting for state-provided social services. Furthermore, they can hire people part-time (for example, in case of needed specialized assistance) instead of having to open a new position (which is usually the case in state-delivered services). By a combination of flexible recruitment policies and voluntary work, they can provide services when and where they are needed (for example, at night on the streets to work with the youth at risk).

CSOs are likely to provide higher quality services

The above factors could lead to the conclusion that due to their specific orientation and ways of working, CSOs are in a position to provide higher quality services than their public sector counterparts. Indeed, sometimes the quality of-

An example of the value of specialist knowledge and innovation is that of *Salva Vita Foundation*, a Hungarian CSO that specializes in finding employment for people with mental disabilities in the mainstream labor market. Recently, *Salva Vita* engaged in an exercise of measuring its *Social Return on Investment (SROI)*, a method developed initially by US and UK academics and non-profits to be able to monetize the value creation of non-profit organizations. (*Salva Vita* has been the first one to undertake such assessment in Hungary and to the best of our knowledge, in the whole CEE region as well.) Based on results monitored over several years, it turned out that the clients assisted by *Salva Vita* will be employed on the average within six months, will remain employed in the same place longer, and will find new employment faster than in similar programs run by state agencies. All in all, every one Hungarian Forint (1 HUF) invested in the activities of *Salva Vita* resulted in a 4,77-HUF return over a period of five years (for example, in savings or income generated).

Source: *Salva Vita Foundation*⁶⁶

⁶⁵ A study from the US also reaffirms the significance of specialization: "A constant challenge for county managers is to explain to their legislatures why a particular nonprofit is the only organization that provides a specific service, such as rehabilitating sexual offenders. Approximately 85% of the county managers explained the situation in terms of specialization". David M. Van Slyke: *The Mythology of Privatization in Contracting for Social Services*, In: *Public Administration Review*, May-June 2003, Vol 63, No.3. Page 302.

⁶⁶ http://salvavita.hu/index.php?menu_id=1210&topmenu=1200&oldal_id=1210&oldal_tipus=text (accessed on November 25)

ferred by CSO service providers can be higher than the quality offered by state service providers. However, it is important to note that in the region, there is a lack of appropriate data that could serve as the basis for analysis; therefore, the conclusion about the higher quality of CSO service provision should be treated with caution. Nevertheless, there is some evidence pointing in this direction. The Audit Commission of the UK⁶⁷ has published a Report in 2007⁶⁸ which contains some hard data regarding comparisons of non-profit (voluntary), for-profit (private), and governmental (public) service providers in the area of social services. The Report found that “voluntary sector providers meet a greater proportion of the national minimum standards than in-house [i.e. public] or private sector providers.” Data is retrieved from the Commission for Social Care Inspection. It analyses seven different types of social care services for children, younger adults and older people (mostly residential/institutional care services) over the period 2003-2006. In six types of services, the voluntary sector providers have consistently outperformed the other two sectors over the four years in terms of the levels of meeting national standards. Only in the service area of residential special schools have the private sector providers achieved a slightly higher rate of compliance than the voluntary sector.⁶⁹

CSOs can bring in additional resources

In the first place, people that work in CSOs are highly devoted to the cause, so they might receive less money or do more work than in a similar government-organized institution. In addition, CSOs are able to attract volunteers

and also donations (to cover part of the costs or add value to the social services provided). The above-mentioned UK Report cites an example from Greater Nottingham, where a study found that for each 1 GBP the local council invested in the form of grant funding to local voluntary organizations, the voluntary sector was able to lever in approximately another 6 GBP through mobilizing volunteers and community resources. In Newcastle, every 1 GBP given in grant aid brought in another 14 GBP from local voluntary organizations.⁷⁰ Although, as the Audit Commission puts it, “an emphasis on inputs focuses on benefits enjoyed by the funder rather than the service user. A broader view of value for money requires consideration of outputs and outcomes as well as inputs.” While there are many instances of CSO-government partnership in CEE/CIS in which CSOs bring in resources (see, for example, the Mission Armenia case study), in the longer term this should remain a secondary consideration of the benefits that CSOs can bring to the area of social services provision.

III.3. Impediments to CSO participation in social service provision

Lack of an enabling legal framework

An obvious obstacle for municipalities to engage in social contracting is the lack of an enabling regulatory framework. The lack of clarity on whether and how to undertake a social contracting procedure seems to be a problem

⁶⁷ The Audit Commission is an independent body responsible for ensuring that public money is spent economically, efficiently and effectively, to achieve high-quality local services for the public.

⁶⁸ *Hearts and minds: commissioning from the voluntary sector. Audit Commission Public Services National Report, July 2007*

⁶⁹ *Id.* pp 19-20. It should be noted that the Audit Commission also observes: “the data available do not permit a robust assessment of value for money. For example, they do not reveal the cost of achieving a higher proportion of minimum standards, nor whether reaching a higher proportion of minimum standards actually lead to a better quality service for end users”. (Although the latter is an implicit assumption.)

⁷⁰ *Id.* p 24.

for most local governments. Most of the countries of the CIS have not yet elaborated many of the elements of a regulatory framework as described in **Section II.7**, which means that there is no clear guidance for municipalities as to their competence, authority and means to engage in social contracting. A weak legal system is also a problem for CSOs, which can be exposed to the practices of the local authorities (for example, late payments, allegations of low quality services without proper indicators/ standards to measure the performance), and remain in an inferior position in contract disputes.⁷¹

The case studies and examples listed in this Handbook illustrate that nevertheless, social contracting can take place under unclear legal conditions. Even though those are the exceptions rather than the rule, the best practice examples provided can be used across countries and regions. They aim to convey the message that even when there is no clear and coherent national level concept and legislation for social services contracting, local authorities can find a way to introduce it legally and effectively within the realm of their own mandates and competences.

Weak capacity of local government

As mentioned already, local governments need considerable human capacity to successfully design and manage contracts for social services. There is undoubtedly a need to build the capacity of state and local level officials to understand and implement social contracting. In local governments, this is true both at the level of the Council and the administration. However, often this requires a change in mindsets besides and beyond the technical knowledge. This is difficult to achieve and usually only “learning by doing”; for example, working with the CSOs themselves will provide

enough impetus for a local government official to understand the value added in contracting out the services. In addition, East-East knowledge exchange can be a powerful way to promote relevant knowledge sharing. As an example, it may be helpful to involve local NGOs in the preparatory process for social contracting (needs assessment, services mapping etc.), who are familiar with the needs and may help developing strategies in service delivery; this can be a good way to start cooperation. However, conflict of interest issues need to be considered here. (Also, CSOs are not always friendly towards the local authorities and vice versa, which may hinder cooperation and establishment of constructive partnerships which are essential for a mixed modality of social services provision.

Besides targeted training and other capacity building activities, one way to address the lack of understanding at the local level can be the active promotion of government-CSO partnerships in social services provision by the state authorities engaged in social policy development. Promotion can be done through legal incentives, as well as through government communication policy, or both. The purpose of this promotion is to acquaint all relevant institutions with the legal possibility, show them successful practices and convey to them the benefits of contracting. The practice shows that it is important to allow space for action and to set an example of practice that works – this could be seen in Ukraine where many others have followed the Odessa example (even some of the models developed in Armenia are based on the Ukrainian example).

Lack of CSO capacity

Even if the system is set perfectly and the administration is willing to contract services to CSOs, there is a need to have qualified CSOs

⁷¹ Struyk, 2003, p 70

that can provide social services. Very often the lack of capacity of CSOs hinders social contracting. They may not be able to fulfill the promise of social contracting in terms of efficiency and higher service quality without adequate capacities. The level of organizational capacity of CSOs in the CIS region is generally weak⁷², this is a serious obstacle. Some CSOs from the old system may have a large infrastructure in terms of buildings and equipment, but they do not have a “modern” understanding of issues of quality management, client focus, or user advocacy. Others have been largely dependent on foreign donors, and have not been keen to develop their capacity for providing long-term services because of the responsibility towards the target groups which they will not be able to fulfill if the funding ends at a given point. With the possibility for state support, they would be more interested to invest in their capacity as well as technical equipment and even buildings (however this may only happen if there is a possibility for longer-term commitment on the side of the local government). In a sense, the challenge of building CSO capacity becomes a challenge for the local government to invest in the development of a sector that can become its long-term reliable partner in providing much needed social services. The local government can devise funding and capacity building programs to support such development. (See the *Odessa example*)

Lack of funding available for social contracting

In part, related to the problem of unclear legal framework, there is also the problem of financing social services at the local level. Local authorities may not receive appropriate

finances from the central government to provide (or contract) services or they may not be able to generate local income to finance the social services. An example is shown also in this Handbook: in Armenia, four towns that have already adopted regulations for supporting CSOs within a social partnership mechanism, have still not allocated any funding for the implementation of this mechanism. Sequencing of decentralization measures is therefore of utmost importance and fiscal decentralization is a key step in enabling social contracting at the local level. It guarantees the existence of reliable funding which is one of the key prerequisites for successful social contracting.

CSO sustainability

The issue of CSO sustainability is a key impediment in social contracting. The local government does not want to run the risk of investing in a service that may collapse when the funding ends. Unfortunately, there have been stories, such as that of elderly people left alone in an abandoned elderly home for weeks until some relative discovered that all the staff was laid off because the CSO operating the home went bankrupt. However, this is to a great extent a chicken-or-egg proposition. In the given story, it turned out that the municipality was just as responsible for the situation as they were routinely late with the payments to the CSO, and did not do any service monitoring which could have given them timely warning signals.⁷³

It is not surprising that CSOs are not as “sustainable” as government institutions. CSOs very often do not have access to finances to invest in developing or maintaining the social

⁷² According to the USAID Sustainability Index 2009, the average organizational capacity ranking in NIS is 4.2 as compared to 3.0 in the CEE countries (on a scale 1(best)-7(worst) where 1-2.9 is “consolidated”, 3-4.9 is “mid-transition” and 5-7 is “early transition”).

⁷³ The example is from Hungary based on the authors’ own information. A short article on the case in Hungarian is available at <http://www.origo.hu/itthon/20030624csod.html>.

service, which in return is a problem for them when they want to access state funding for service delivery. Often the state reimburses the expenses made instead of paying in advance, which means that the CSOs should advance some expenses from their operational funds. While the lack of a sustainable income source is often seen as an impediment to CSO involvement in social services provision (“CSOs only run the service until there is funding for them, so they are not reliable in the long-term”), it is also a basis for negotiation of longer-term and regular government funding (“if you want us to run the service in the long-run, you need to commit the funding for it”). Clearly, the continuity of service provision is of key importance from the beneficiaries’ perspective, and therefore CSOs often advocate for funding not just for the sake of their own sustainability, but primarily keeping in mind the right of vulnerable people to access social services.

Image problems of CSOs

A reason for the negative attitude of the local authorities towards the process of social contracting might be the bad image CSOs have in the eyes of the state officials and sometimes even the wider community. In some places, there is a stereotype created about CSOs as “grant-eaters”, as also covers for businesses or organizations that lack professionalism and are just shouting on the streets without understanding the problems. Another feature commonly attributed to CSOs is that they just get the money to pay high salaries for their staff without doing real work.⁷⁴ All of these stereotypes might be obstacles to social contracting and in such cases CSOs have to work hard to improve their image with the public and the decision-makers.

Even when the image is not negative as such, in some countries the understanding is that CSOs are a *vehicle for attracting donor funding* to the local community, rather than receiving funding from the community to provide services to the local population. This is true especially in poorer countries where CSOs are predominantly funded by foreign donors, and it is especially problematic when foreign donors are supporting basic social services without developing an exit strategy from the outset. Foreign support does not last forever and funding basic services from foreign donor sources is not a sustainable mechanism to cater for local needs. Foreign funding and/or donations may be a good tool for attracting additional resources, but the basic funding should come from the national or local authorities.

Vested interests

Introducing a new mechanism inevitably brings changes in the local power structure, often radical ones. Social contracting, while it may seem agreeable for all parties, may threaten some existing interests of different stakeholders. For example, local governments often fear introducing competition and a market-like environment in the area of social services provision. Government officials might have fears that CSOs providing services mean competition, and contracting the service would result in having to fire people employed by their own institutions. This fear persists even though in practice CSOs will usually hire the experts who leave the government sector (as experience shows from some CEE countries where such transition already happened).

Sometimes a well-established donor-funded CSO considers it threatening to open the “playing field” to other CSOs who could now

⁷⁴ Such perceptions occurred for example during the evaluation of the Social Innovation Fund in Serbia, especially between Centers for Social Work and CSOs (see UNDP, 2010, p.25). Perceptions of social service practitioners in Ukraine also recognize similar attitude (see DfiD Facilitating Reform of Social Services in Ukraine Project).

be funded by the local government and develop services similar to theirs.

Finally, in some cases, it is not the local government or the CSO, but the community that feels threatened by the change resulting from the introduction of social contracting. For example, the local community might object the plans for new, CSO-managed day care centers for children with disabilities to be opened “next door”.

In all these cases, a carefully facilitated mediation process needs to be put place wherein everyone gets to voice their problems and fears, be heard and mutually acceptable solutions be worked out. It is usually the responsibility of the local government to lead such a process, which in itself requires special skills. Local governments can utilize conflict mediation CSOs to facilitate multi-stakeholders’ discussions and help resolve such situations.

Lack of transparency

One serious impediment for social contracting across the region is the lack of transparency. Inability of the authorities to demonstrate the transparency of the social contracting process makes decision-makers wary of engaging in a new practice of financing of non-state actors even when there is a need and the outcome would be clearly beneficial for all the actors involved. For that reason, there needs to be a clear regulation of the process, including how to publish information, how to avoid conflict of interest situations, how to select the winners of the awards etc.

On the other hand, the lack of CSO/NGO accountability to their respective constituencies is yet another factor that contributes to the overall lack of transparency. Most CSOs are quite good in presenting nicely-written donor reports, but only a few of them regularly account to the groups whose interests they represent.

Transparency is very important for the process of social contracting because a corrupt selection procedure leads to failures in selecting the best provider, which in turn directly affects the beneficiaries on the one hand and the price of social service on the other. If the selection process is not fair, potential candidates lose interest in participating in such procedures and lose the incentive to develop their capacity with respect to the contracted services. The important prerequisites for transparency are:

- Development of a clear tendering procedure and the selection criteria;
- Defining clearly the amount and quality of the contracted services – both during the competition and in the contract (which is then used as a basis for future monitoring of what is actually delivered);
- Clear contracts with defined rights and obligations of the provider and the municipality;
- Good reporting and monitoring system;
- Ensuring the information on all the steps is publicly accessible by publishing them in a timely manner (for example, in the local media or the internet).

III.4. Comparative advantages of CSOs and for-profit organizations in social services provision

Underpinned by the agenda of Corporate Social Responsibility (CSR), there is an increasing trend in the transition economies of the CEE and the CIS towards encouraging the for-profit private sector to be engaged in the delivery of government policy initiatives, undertake general business activities in deprived communities, and be involved in the delivery of so-

cial services as contractors, partners or even competitors. Moreover, the newly established entities to be found between the voluntary sector (civil society) and the private sector (the market) – **social enterprises** – are emerging as active participants in addressing socio-economic problems, including social service delivery. This chapter provides a short overview on the role of for-profit organizations - companies in the provision of social services and a brief analysis of similarities and differences related to social contracting of for-profit providers compared to CSOs.

For-profit and CSO service providers – similarities and differences

In general, they are two main structural features between CSOs and private companies that distinguish them. Firstly, CSOs are subject to ‘non-distribution-constraint’ that entails strict limits to the appropriation of the organisation’s surplus for those who run and control it, such as its members or founders, while in for-profits owners are the residual claimants. Secondly, for-profit companies have owners whose aim is to obtain profits. On the contrary, CSOs cannot distribute their profits to the members and are expected to serve beneficiary stakeholders or the society as a whole by providing products and services of general interest.⁷⁵

The characteristics and comparative advantages of each of the non-state sector social service providers in the economy of particular country will result in configuration, and nature of their “cooperation” in the delivery of any particular social service. Both companies and CSOs have to function in the markets, and when operating as service providers in so-called mixed markets, they are in principle competitors, must be demand oriented and

must provide quality to survive. However, there are also certain complementarities in their functions that are prerequisites for partnerships and cooperation, and are likely to contribute to better results in social service delivery.

There is a general perception that when operating in the market, for-profits can be characterized as entities with high overall efficiency, but also substantially influencing the level of government and market failures. In order to be financially viable, the private sector usually provides its services to clients with higher purchasing power, and the costs of their services tend to be less affordable for the poor people. It is only with those sections of the population with very low or no purchasing power, where the government usually steps in as a “purchaser” that acts as a agent of poor beneficiaries through contracting provision of services through non-state entities.⁷⁶

Of course, there is a wide range of services that need to be provided for people in the middle or higher income level with specific need (for example, a disability) and where the private sector can play a role. For example, a high-income professional who loses his leg due to an accident will want to pay for good service in rehabilitation, home care or job-retraining. In addition, if certain prerequisites are fulfilled, companies can compete with or even undercut the prices offered by CSOs. In case there is sufficiently large quantity of customers on the market and large volumes of effective demand, together with high standardization, companies with highly professional and efficient enterprise organization and management, can reduce the price of their services. This can actually enable them to reach out the poorer sections of the population (but not the poorest ones).

⁷⁵ Koning et al, 2006

⁷⁶ So called “purchaser-provider model”. See Wagstaff, 2009

In contrast, CSOs are widely regarded as vehicles that **reduce the consequences of government and market failures**. Especially, as social services are aimed at those who are in a disadvantaged situation, CSOs can substantially contribute to increasing quality and accessibility of social services for vulnerable groups and consumers with a low income. Or simply, they focus on the areas where for-profit actors do not have an interest to be engaged because they are not profitable. Therefore, CSOs are often stimulated by favourable regulatory measures, such as tax exemptions or budget support.⁷⁷ Moreover, the process of provision of social services by CSOs usually has added value and positive long-term consequences on a larger constituency than their clients, and these are actually hard to measure (See **Section III.2 on Advantages of CSOs as service providers for more detailed information**). In particular, organizing voluntary labour, building of social capital, attracting private donations at the local level and contributing to community cohesion could be considered positive externalities that provide a rationale for public interventions supporting CSOs.

On the other hand, in certain circumstances, the public sector support of CSOs may cause **market inefficiencies** – higher production costs of CSOs. If both CSOs and the private sector can provide social services for certain market segments for the same price and same quality, one might argue that there is no strong argument to favour CSOs only because of their non-profit status. In this case, the state subsidies and tax exemptions that are provided to CSOs should not disadvantage or even crowd out the private sector from the competition. For example, if the local government tenders a contract for a meals-on-wheels service, a company and a CSO should have an equal opportunity to apply and compete – both having comparative advantages

in their bids and the best value proposition. In order to raise the level of quality and efficiency of provided services, government should use generic regulatory measures to combat market failures – **irrespective of the legal status of service providers**.

Recently, new forms of organisations have emerged as providers of social services for local communities and vulnerable groups of population – **social enterprises**. These are co-operatives, associations, foundations, voluntary organizations, and other not-for-profit or limited-profit distribution entities that operate social-purpose businesses with an objective to address market or government failure using innovative approaches. In order to be able to address the needs of the clients who are usually poor or even unable to pay, social enterprises combine entrepreneurship with the pursuit of social aims, and mobilise multiple funding sources (public funding, commercial income, volunteer labour, donations, etc.). These entrepreneurial activities have enabled many CSOs to extend their mission-related products and services, and reach out to new constituencies.

What is a 'social enterprise'?

A common definition of social enterprise is, 'Any private activity conducted in the public interest, organized with an entrepreneurial strategy but whose main purpose is not the maximization of profit but the attainment of certain economic and social goals, and which has a capacity for bringing innovative solutions to the problems of social exclusion and unemployment' (OECD, Social Enterprises, 1999)

⁷⁷ See UNDP-EMES Study, 2008

In the UK, Belgium, and Spain, as also in Poland and the Czech Republic, social enterprises are increasingly contracted by the local governments to provide social services. However, in Eastern Europe and the CIS, they are still in their infancy and their potential contribution as social service providers remain largely unrealised.⁷⁸ Experiences from some new EU member states demonstrate that social enterprises could be a good way for transition countries to develop sustainable and high quality providers of social services as partners of the government in addressing long-term social problems.

Although the contribution of CSOs and social enterprises to correct market failures is important, the public authorities should ensure that the tax advantages provided to them do not encourage for-profit business organizations to become CSOs or social enterprises and seek rent-extraction by other means than profit maximization. Also, subsidisation by the state should not lead to diminishing the effects of voluntary labour, private donations and other above-mentioned positive externalities that are considered to be added value offered by CSOs/ social enterprises.

The decision on opening up competition in social service provision through social contracting to the private sector is thus largely a matter of perspective. First and foremost, the local government (or central authorities) need to decide what they find important in delivering the service – i.e. map the needs, suppliers market, determine the service standards, etc. Second, based on the assessment of the needs/ market and the required standards, the government needs to decide on which providers to involve and in what manner. If at this stage, financial criteria are a predominant

decisive factor⁷⁹ – given a pre-determined quality of services – then there is no stringent reason for the assumption of a categorical advantage of the CSOs/social enterprises over the for-profit sector. In this case, government intervention will be more effective through regulatory measures that apply to all the service providers. In particular, the public sector should increase market transparency and set quality standards, or subsidise the provision of services for particular consumer types or particular market types.

As already mentioned, both public and non-state sectors – the private sector and third-sector (CSOs) – have their weaknesses and strengths. The recent trends show that a **three-folding partnership framework** (the public and private sector, and civil society) has the capacity of bringing together these very different groups, and resources, and tackle the problems which no single sector can solve by itself. Through the tapping of mutual comparative advantages and complementarities, including different skills and expertise, the appropriate balance between key considerations – such as equal access to services, decent quality of services (ensured through standardisation and certification processes), and costs of services – can be achieved.

Role of the for-profit sector in the provision of social services

An increasingly common form of social contracting of for-profit organizations in Europe is through contractual Public Private Partnerships (PPPs). One could see such PPPs as one option for social contracting, where the government contracts a private sector service provider to provide welfare services under

⁷⁸ See UNDP-EMES study, 2008

⁷⁹ As emphasised in Section II.5, price should not be the single most important criterion for the selection of a provider for the provision of social services. In this case, "efficiency" considering service quality as a key principle, i.e. "lowest price for a given quality" should be instead applied.

a special arrangement, in which – besides the service standards and related requirements – the financial contributions, the sharing of risks and of financial and social returns on investment by the parties are regulated.

Commonly, PPPs are limited to rather large infrastructural investments, and the provision of social services based on PPPs in the region of Eastern Europe and the CIS is still in its infancy. However, countries such as the United States, the UK, Canada, Australia, Japan, and to a lesser degree India, have already accumulated many years of experience in contracting welfare services as schools and hospitals through PPPs. The Netherlands has success stories in social housing and urban regeneration.

Since PPPs are rather complex and long-term arrangements, they require an elaborate regulatory, institutional, legal and policy framework. In the transition economies, so far only a few PPP contracts have been successfully implemented. One could argue that ideally, any social contracting requires similar preconditions. Governments should, for example, be able to properly plan and determine the required service delivery and identify if they are affordable. They should be able to ensure true and transparent competitiveness in awarding contracts (be it for not-for profit or for-profit organizations) that need to be extended into contract implementation (to ensure constant quality in the delivery). Governments should also be able to assess which offers provide value for money for which they should at least be calculating the so-called “Public Sector Comparator (*PSC*, see *Glossary*)”, which is the estimated, risk-adjusted costs of the government itself delivering the service in question. Finally, governments should be able to effectively ensure and measure the agreed service delivery, react to changing environmental or technological conditions, and terminate or otherwise intervene in the case of underperforming contractual partners, while still giving the private partner sufficient planning security and

What is a “Private Public Partnership (PPP)”?

PPP is “an agreement between the government and one or more private partners (which may include the operators and the financiers) according to which the private partners deliver the service in such a manner that the service delivery objectives of the government are aligned with the profit objectives of the private partners and where the effectiveness of the alignment depends on a sufficient transfer of risk to the private partners.” (OECD, *Dedicated Public-Private Partnership Units - A Survey of Institutional and Governance Structures*. P18, 2010)

implementation freedom. The latter is very important for achieving the minimal pay-off period of required investments (be it just a minimal kitchen equipment for the provision of meals, or a large hospital), and to benefit from the assumed higher efficiency and ingenuity of the (for-profit or not-for profit) private sector. Clearly, there is a necessity for accountability, transparency and integrity.

Social service PPPs are particularly challenging, as they usually require smaller investment amounts (than, for example, a water utility or a healthcare) and are often also more difficult to measure. PPPs require a costly and often lengthy tendering process and proposal writing procedures, which are not justified for smaller investments. This is why in practice other forms of social contracting are more frequently utilized. To circumvent these disadvantages, governments can provide and tender a larger pipeline of social services, bundle projects and/or standardize contracts. The difficulties in efficiently measuring the provision of social services in terms of quantity and quality can partially be addressed in the contracts.

Involvement of for-profit companies in social services in the CIS region

The research team has not been able to identify any examples of for-profit companies being directly involved in the provision of social services through social contracting in the three countries examined in the report. This may have been due to several reasons, and based on the experience of the CEE countries, it is bound to change.

First, in some countries like in Armenia, social services development is still in its early stage. There has to be a certain understanding of the range of **services that can be provided and the professional requirements** that accompany them, to create the “supply side” of the “market”. This presupposes, for example, advanced education and adult training of professionals in the various services, as well as some kind of regulatory body, whether government or self-regulatory (for example, a professional association of social workers) that develops a list or even a register of services and appropriate standards based on up-to-date professional principles (such as integrated services, user involvement and empowerment, customer choice, etc.).

In countries where mixed modalities of social services provision (involving both state and non-state service providers) are more devel-

oped, such as in the Ukraine, the missing link may be the lack of a proper **regulatory environment** that enables government funds to be channeled through to for-profit providers in the same way as they would be to the government’s own or CSO providers. A prerequisite for this is the so-called unit-based cost calculation of services that allows the government to understand the real costs involved in the service and assess the efficiency of any cost-proposals by non-state providers. As already mentioned, “Public Sector Comparator” can be used by the government as a tool to estimate and make decisions on whether a proposal by the private sector provider offers value for money in comparison with the most efficient form of public procurement of service delivery.

Based on the experiences of transition countries with a more developed market for social services, such as Hungary, the most typical areas where for-profit providers get involved include **elderly care** (especially elderly homes, wherein the elderly person assigns his or her home property to the provider in exchange for ongoing care during his/her lifetime), **child care** (services related to children, from kindergartens to early childhood development centers and sports rehabilitation), and **employment** (e.g. job placements, vocational training, supported employment, etc.).

IV. Analysis of the policy and legal framework and the practices in Armenia, Kazakhstan and Ukraine

IV. 1. The concept of social contracting in the CIS region

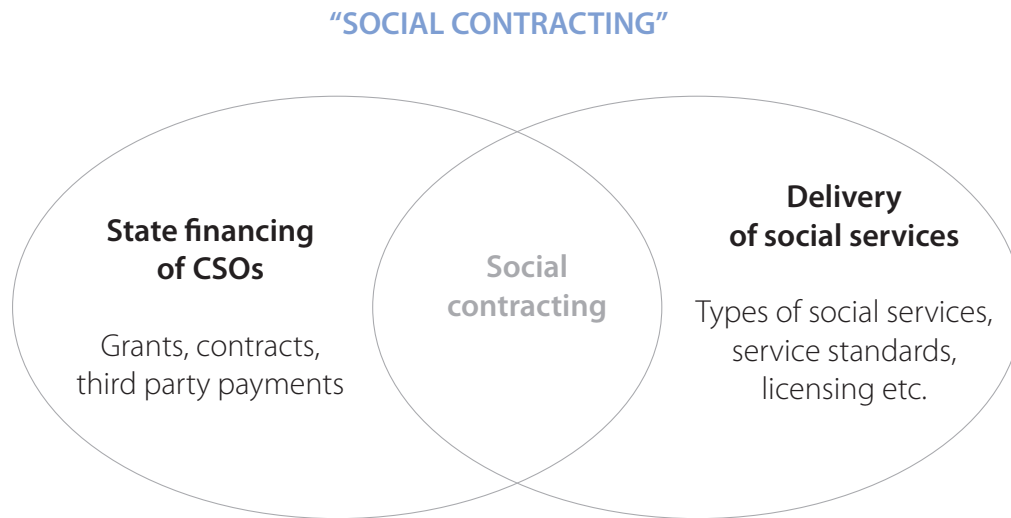
In the following analysis, we will look at the ongoing efforts to introduce social contracting in three CIS countries with the purpose of drawing learning points for governments and CSOs in similar situations. Before we embark on a country analysis, we would like to draw attention to the fact that although there is a term that is commonly used in the CIS countries for social contracting (*see below*), the **concept itself is not clear and is being interpreted in different ways** in the three countries.

One area where the lack of clarity is apparent is in the financing mechanisms. **Section II.7** identified three main mechanisms for financing service delivery of non-state actors (budgetary support, procurement and third party payments), each of which serve different purposes and entail different rules and capacities for effective implementation. However, in transition-economy countries, including those examined in this Handbook, the **specific forms and mechanisms of CSO financing are not yet**

differentiated in legislation or in practice. As a result, sometimes the conceptual elements of each are mixed, leading to less effective or less transparent financing of the services. As an example, in Kazakhstan, state support that is in effect a grant mechanism is administered on the basis of a contracting mechanism, which leads to less efficient implementation of the government policies. (*See Kazakhstan context and legal framework analysis*).

Another result of the lack of conceptual clarity is the **equation of CSO support with social contracting.** Social contracting, as defined by this Handbook, represents only a part of CSO support, i.e. financing activities related to social services provision carried out by CSOs. Yet the so-called “social order” (“*socialnyi zakaz*”), which is widely referred to as social contracting across the CIS region, encompasses financing of all kinds of CSO activities (including social services, but also for example environmental protection, cultural activities or institutional costs of the CSO). From the perspective of budgetary policy (categorizing public spending), the social order would best be considered as a grant mechanism for CSO support, and as such, it could have a specific role in supporting social services on a project basis;

Figure 2: *Overlap of the system of CSO financing and the system of social services delivery*



however, it cannot be considered as a specific method of social contracting on the whole.

A basic problem in providing a clear definition related to social contracting in the examined countries is that both CSO support mechanisms and the reform of the system of social services provision are still evolving. At the same time, it is hard to define, from a legal point of view, what kind of contracting and financing relationships belong to the area of “social contracting” until these are both crystallized, given that ***social contracting in essence represents the overlap between the system of CSO financing and the system of social services delivery.*** (This is true notwithstanding the fact that non-state providers other than CSOs can also be involved.) This is also true for both the central and the local level in social contracting. (See Figure 2).

Regardless of the evolving meaning of the concept, ***governments are increasingly interested in introducing or expanding social contracting*** as a key mechanism to address growing social inequalities. Social welfare systems

have been comparatively neglected in the transition to democratic political systems and market-oriented economies. As a result, the social costs of the transformation have not been distributed equally among the population; they have been in particular borne by the poor.⁸⁰ Economic transition affects the vulnerable groups disproportionately, so their need for social support increases. Budget incomes may fall due to economic restructuring, so less money from the state is available to meet the social needs. At the same time, the existing social systems are collapsing due to lack of resources even to maintain service quality, not to mention serving the expanding needs.

Some governments have been relying on the support of international donors as one way to deal with the deficiencies. By now, however, there is an increasingly urgent need to develop a system that will take over donor-funded services once they stop their support. This means that the states need to start seeing social services as their own responsibility and should allocate reliable and long-term finances for these services.

⁸⁰ See UNDP/EMES Study, 2008

All of this calls for a shift from the traditional state- and institution-centered thinking of meeting social needs to a *modus operandi* that places effectiveness, cooperation among public and non-state providers (i.e. the private sector and civil society), and the rights of beneficiaries in the focus. As the following country examples demonstrate, this shift is already happening in the CIS, but there are still quite a few challenges for stakeholders to overcome before they are able to harness the full potential of social contracting.

IV. 2. Armenia⁸¹

IV.2.1. Context

Social contracting is closely related to the overall system of social assistance in the country. The Armenian social system is predominantly focused on the provision of social assistance in the form of cash transfers rather than the provision of social services. The system was designed in the 1990s and was called “*paros*” (lighthouse) or Poverty Family Benefit System. Under this system, there are 55 regional centers to which poor families send applications. All applications are evaluated based on certain criteria and the ones that qualify under the criteria start receiving support from the state (financial support). This system is costly to maintain as roughly 11 % of the state budget is spent on the poverty benefits⁸².

In addition to the family benefit, the state maintains several institutions – eight orphanages, seven boarding institutions for children, and some other institutions for children and the elderly⁸³. There are a limited number of social services provided by the state (although there

Armenia: World Bank Data Sheet

Income level: Lower middle income
 GDP: 9,264,794,733 USD (2010)
 GDP per capita: 3,090 USD (2010)
 Population: 3,092,072 (2010)
 Poverty headcount ratio at national poverty line: 26.5% (2009)

Source: <http://data.worldbank.org/country/armenia>

are other services, including employment, health care, and one-time services). Almost all non-institutional social services are provided by CSOs, funded in part by international donors and in part from the large diaspora. One of the biggest providers of social services is *Mission Armenia* – a CSO largely supported by foreign donors, which receives partial support for its services from the state budget. Its services include soup kitchens, and some services for the elderly and children. The support of the state covers roughly around one-third of the total expenses of *Mission Armenia* for providing the services (see the *Armenian Case Study* for more details).

In Armenia, there are more than 900 local communities/municipalities. The majority of these local self-governments are very small and do not have sufficient fiscal capacity to carry out their own functions, much less the delegated functions of providing social services. Land and property taxes constitute the main own revenues of local self-governments and these revenues are very low. In addition the state transfers funds to local authorities to carry out some delegated state obligations, but these funds are limited and represent a minor portion of the state budget. According to *Art. 43 of the Armenian Law on Local Self-Government*, “taking measures for the improvement of social conditions of dis-

⁸¹ The information in this section is based on document review and meetings/interviews held in 2010.

⁸² Based on information received from *Mission Armenia*.

⁸³ Based on the Concept Note on Organization of the Process of Provision of Integrated Social Services, adopted by the Government on 3 June 2010.

abled people, families that have lost a sponsor and other socially vulnerable groups" is part of the voluntary powers of local authorities. This means that municipalities deal with this only in case there is some money left and they have taken care of their mandatory obligations first. In addition, not many local authorities have personnel dealing with social services or other social problems.

The primary state institution responsible for social service policy is the Ministry of Labor and Social Issues. Other ministries, such as the Ministry of Education may have a role in providing some services as well (for example, boarding schools for children with disabilities). The social protection system is highly centralized as 51 of all 55 regional centers of the Poverty Family Benefit System are under the direct control and management of the state. The remaining four regional centers have been transferred to local authorities in a pilot attempt to decentralize the system, but this process could prove challenging as the territories for which the centers are responsible do not coincide with the municipal territories. In addition, even where some social responsibilities have been delegated to local authorities under the Law on Local Self-Government, there is no funding attached to this transfer. So, in reality, there is no real delegation of powers.

The Ministry of Labor and Social Issues has recently taken a new approach towards meeting the social needs of people in Armenia. It has developed a Concept Note on Organization of the Process of Provision of Integrated Social Services, which was adopted by the Armenian Government on 3 June 2010. The Concept Note is a step in the direction of creating a model for provision of social services. One of the objectives of the integration of social services, according to the document, is securing continuity in service provision. In addition, two of the approaches on which the process will be based are collaborations between various organizations and partnerships. The Ministry is developing a timeframe for the implementation of the basic steps in accordance with the concept note. Among these is creating a database of all existing social services and all existing providers, as well as development of guidelines for social cooperation and joint work.

IV.2.2. Existing practices of social contracting (national and local level)

According to the 2009 USAID NGO Sustainability Index, in Armenia there are over 4,000 CSOs, but only around 10%-15 % of them are actively pursuing their missions.

Table II. State grants for CSOs to deliver social services in Armenia.

	2007	2008	2009	2010
Mission Armenia	127 million AMD 351,751 USD ⁸⁴	127 million AMD 351,751 USD	196 million AMD 542,861 USD	196 million AMD 542,861 USD
Bridge of Hope		51 million AMD 141,254 USD		
Prkutyun		16.5 million AMD 45,700 USD	16.5 million AMD 45,700 USD	16.5 million AMD 45,700 USD

⁸⁴ All USD amounts in this table are given according to the exchange rate of the National Bank of Armenia on November 19, 2010. 1 USD equals 361.05 AMD. Historical rate is not available.

CSOs receive funding from foreign donors and there are limited social services in Armenia that are funded by the state and almost no social services are funded by the local authorities. Only three CSOs have received direct state funding (in the form of grants) for social work in the past few years – *Mission Armenia*, *Bridge of Hope*, and *Pyunik*. Listed below are the amounts they have received from the state budget in the last four years.

The CSOs to be supported were selected without a publicly announced competition, based on the need to support the services they provide. There are also other CSOs working in other areas and they sometimes receive funding from the state. An example is the organization UMCOR, which receives support from the Ministry of Labor and Social Issues for running long-term shelters for victims of trafficking. The organization was contracted directly because it is the only organization with extensive experience in the field.

Other CSOs receive different grants from ministries for providing specific services. For example, the *Pyunik* CSO gets funds from the Ministry of Sports and Youth Affairs since

2005 for the implementation of youth and educational projects for disabled people. Within the framework of the projects, *Pyunik* also provides social work, speech and language therapy and psychological services supported by 1.5 million–2 million AMD⁸⁵ each year. Since 1996, *Pyunik* receives a Presidential Grant for organizing a Summer Camp at Sevan Lake for disabled children, approximately 6–7 million AMD⁸⁶ each year⁸⁷.

A number of municipalities in Armenia have developed a mechanism for social partnership. This is a mechanism through which CSOs and local authorities jointly prepare local regulation on how they will cooperate; this usually includes a mechanism for providing funding to CSOs (in the form of grants). This money is usually distributed to cover some basic local needs. The first such regulation at the local level was adopted in the town of Vanadzor in 2006. So far, 12 towns have adopted such regulations, and four more are in the process of doing this. Interestingly, the four municipalities with regulations still to be adopted have already provided funding in their own budgets for social partnership, while four of the other municipalities have still not done so even

The Social Partnership Regulation in Vanadzor

The Social Partnership Regulation in Vanadzor was one of the ideas that was developed after a study visit to Ukraine, where the good practice of CSO-municipal cooperation has co-existed for some years. The representatives of the city of Vanadzor, CSOs and local authorities, formed a joint social partnership advisory group after seeing the Ukrainian experience. One of the major goals was the preparation of the regulation itself. The regulation, in addition to its other provisions, also created a mechanism through which funding would be provided to CSOs. Even though the funding that was provided on an annual basis is quite modest (600,000 AMD), it nevertheless was a good example. Unfortunately, this practice was discontinued in 2010 due to the financial crisis, according to the vice mayor of Vanadzor.

⁸⁵ Between 4,100 and 5,400 USD (2010 exchange rate)

⁸⁶ Between 16,400 and 19,100 USD (2010 exchange rate)

⁸⁷ According to the president of *Pyunik* Mr. Hakob Abrahamyan

though regulations were adopted more than two years ago. In general, funding is limited; the largest amount provided under this mechanism has been for *Ashtarak* – 1,200,000 AMD (c. 3,300 USD)⁸⁸.

IV.2.3. Legal framework for social contracting

Currently, in Armenia, the law explicitly allows for the possibility of social contracting, but there is no specific or detailed legislation regulating this process. The Law on Social Assistance provides that “the organizers of social assistance may sign contracts with non-governmental non-commercial organizations in the manner stipulated by the law, regarding the transfer to the latter of certain functions of the state or community program on social assistance, providing them for this purpose with corresponding financial means, and in separate cases providing them gratuitously or on beneficial terms with territory, property, and other in the manner stipulated by the law.”⁸⁹ In addition to monetary or assistance in kind, the law also stipulates the provision of other different types of assistance, such as care arrangements and consultative assistance (which are in effect different types of social services).

This possibility created by the law is, however, not widely used. There are three main reasons for the lack of the spread of social contracting, despite the explicit authorization of the Law on Social Assistance:

- (1) There are no further specific and detailed regulations to implement this general provision, especially on the procedures as to how the transfer of provision of services may happen.
- (2) The state itself provides only a limited number of social services and there are no budget allocations for social services provided by CSOs. In the case of the exceptions when funding has been provided to CSOs from the state budget, the support was given as a grant, but without any tender procedure.
- (3) While the Law on Social Protection allows contracting, the Law on Public Organizations prohibits CSOs from engaging in income generating activities, including contracting.

The fact that CSOs in Armenia cannot receive payments for provision of services because current legislation prohibits them to engage in economic activities directly, formulates a concrete legal obstacle to social contracting. According to *Art. 4, Par. 3 of the Armenian Law on Public Organizations*, CSOs can conduct economic activities only by setting up or participating in a limited liability company. While this has become a more widespread practice in recent years, many CSOs still fear that they may be targeted by the tax authorities in case they engage in economic activities.⁹⁰ The legal prohibition eliminates the possibility for CSOs to engage in any public procurement, as that would entail receiving fees for services. Therefore, in terms of social services, the only possibility is to receive a grant for carrying out social activities. The limitation does not apply to foundations.

There are no provisions related to the participation of private sector providers in social contracting, but businesses may be contracted by the state for any task using the general procurement mechanism. There have been no cases of businesses providing social services.

⁸⁸ See Annex for the list of municipalities that have adopted social partnership regulations in Armenia as of 2010.

⁸⁹ Art. 22, par. 3 Law on Social Assistance

⁹⁰ USAID 2009 NGO Sustainability Index.

Social Partnership Regulation of the City of Vanadzor: Basic Principles

The regulation of the municipality of Vanadzor provides that one of the basic principles is the mandatory announcement of competition to select CSOs which will sign contracts with the local authorities. The proposals are evaluated by a committee on social partnership consisting of both CSO and municipality representatives. There are specific criteria used to evaluate the projects.

There was a requirement for social service providers to have a license, but according to CSOs, this is not applicable anymore because very few organizations could actually live up to the licensing standards. There are requirements only with regard to the services provided by organizations receiving state funding that apply equally to state and non-state providers. The standards, however, do not differentiate between an organization receiving the full amount of money required to complete the criteria and an organization that receives a small part of the total cost of the service. This creates problems for the organizations, as they have to adhere to strict government requirements (for example, on how many people they should employ, etc.) without receiving funding for this work.

Government decision N 1937 from 24 December 2003 establishes a mechanism for provision of subsidies and grants to legal entities from the state budget after a competition. Based on *President's Decree N 87 from 13 May 2005*, the President provides grants to CSOs. The grant objectives, however, generally target areas other than the provision of social services. The grants procedure is managed by a CSO.

As noted above, the current social assistance law does not provide for any special regulation on social contracting. It provides, however, the possibility to delegate some social obligations to CSOs based on a contract. Since there is no specific procedure in place, the local authorities may adopt their own regulations on how to interact with CSOs more generally and in the area of social assistance more specifically.

IV.2.4. Case Study: Mission Armenia

General Overview

Mission Armenia is an Armenian CSO that was started by a group of volunteers in 1988 with a commitment to help the victims of the devastating earthquake, socio-economic crisis, and the war. The organization was officially registered in 1993, shortly after the introduction of the CSO sector in Armenia. Despite its various activities, however, the tangible contribution that *Mission Armenia* has had in the social support system is the development, implementation and enforcement of the Community-Based Service Provision Model in Armenia. In the course of its existence, *Mission Armenia* has set up about 50 community infrastructures that are spread up across the country for the provision of social-healthcare services. These are renovated, furnished and equipped sites with over 500 qualified and skilled personnel, among them day care centers, soup kitchens, rehabilitation centers, resource centers, old-age homes, health posts, libraries that have no alternative in Armenia. The organization is also involved in advocating for an improved legal framework for social services in Armenia. It is one of the strongest supporters of the idea to create a mechanism for social contracting in the country (even though *Mission Armenia* is one of the three organizations that already receive funding). *Mission Armenia* now wants to switch from full dependency on grant-based funding to develop sustainable finances for itself.

Currently, the organization covers eight out of 10 “*Marzes*” (regions) in Armenia and provides services to the needy (with a predominant focus on the elderly and children, but there are also services for people with mental problems). It operates 28 daycare centers throughout the country. There are over 5,500 beneficiaries of the organization’s programs (2,000 people receive food in the soup kitchens). A large part of the services provided are covered by foreign donor funding. In addition to this, *Mission Armenia* works with diaspora and has representative offices in Sydney (Australia) and Los Angeles (USA).

For several years already, *Mission Armenia* has been trying to make sure there are local sources of funding available as well. In 2007, for the first time, *Mission Armenia* managed to receive funding from the Budget of the Ministry of Labour and Social Affairs. This was a result of heavy negotiations with the Ministry of Finance and other institutions to make sure the services the organization already provides continue to exist. In this process, *Mission Armenia* was supported by the Social Ministry. This funding does not cover the overall cost of the services, but is used for covering the salaries of social workers etc., which in total amounts to one-third of the total cost (see the table of the budget subsidies provided by the Armenian government above).

This process has not been as smooth as it may seem. In 2010, the Social Minister at that time decided to organize a competition for the funds that had already been allocated to *Mission Armenia* for 2010 as he decided he wanted to have a new provider (the subsidies are budgeted annually, but are provided throughout the year). He announced a competition, but gave a really short deadline for applications and the competition failed. In the end, *Mission Armenia* signed a new contract for until the end of 2010 as initially planned.

In addition to state funding, *Mission Armenia* receives support from the local authorities as well. Traditionally, the support is “in kind”. In many of the towns where *Mission Armenia* has daycare centers, they receive free-of-charge buildings which they use as precincts to provide the service.

Mission Armenia has also started approaching the local authorities for support for the services it provides. The organization has started offering local authorities signed partnership contracts through which it seeks to cover part of its running costs for the provision of services. *Mission Armenia* provides information on the number of people it serves (and the services provided to them), as well as on the cost of maintaining the service locally. The organization thereafter requests local authorities to

Mission Armenia: The Town of Ararat case

In the town of Ararat, *Mission Armenia* had a building which it used as its daycare center. Its contract with the town provided that it could use the building free of charge, as long as it provided the daycare service from within the precincts of the building. However, because of withdrawing donors and the economic situation, *Mission Armenia* had problems in maintaining the service. *Mission Armenia* turned to the town’s Mayor to provide part of the funding in order to ensure that the daycare center continues its operations. The Mayor, however, refused to provide funding and *Mission Armenia* had to subsequently close down the daycare center in the city. Shortly after, the Mayor privatized the building (sold it to a private company), making use of all the improvements and renovation that *Mission Armenia* had incorporated in the building.

Table III. *Mission Armenia CSO cost-sharing contracts with Local Self-Governing Bodies (LSGB) in 2009*⁹¹

	Community	LSGB investment (% of the total cost of the contract)	Actual amount paid by LSGB (% of the total cost of the contract)	Mission Armenia investment (% of the total cost of the contract)
1	Gavar	6,4	6,4	93,6
2	Charentsavan	30,0	13,18	70
3	Sevan	30,0	3,85	70
4	Spitak	10,26	10,26	89,74
5	Masis	40,0	35,87	60
6	Verin Getashen	34,0	34,0	66,0
7	Vanadzor	20,0	0,0	100,0
8	Goris	20,0	20,0	80,0
9	Sisian	4,2	2,1	95,8
10	Alaverdi	30,0	25,77	70,0
11	Chambarak	4,6	4,6	95,4

help cover part of these costs. Listed above are the local authorities (towns) that have agreed to provide co funding.

As one can see, the communities that have agreed to provide funding are increasing, which is a good sign. However, even though funds are included in the local budgets, *Mission Armenia* does not receive all the money budgeted. Examples include Vanadzor, which has budgeted 3 million AMD in 2009, and Hrazdan, which has budgeted 3 million AMD in 2010 – both have not provided any money as yet to *Mission Armenia*.

Conclusion: Factors of success or failure

Mission Armenia faces several serious problems with its engagement in long-term service delivery in Armenia. While its services were cre-

ated and developed with donor funding, it is time the organization become sustainable, which means that the national and local authorities should take the responsibility to provide most, if not all, of its funding.

The example of *Mission Armenia* demonstrates that even in a lower-middle-income country with a not well-established system of providing social services, the government (both at the central and at the local level) will be compelled to support CSOs, as the government acknowledges that they make an important contribution in addressing social needs and reaching the most vulnerable sections of society. There are several important factors as to why the government has provided public support to *Mission Armenia*:

- The services *Mission Armenia* provides are needed and people rely on them;

⁹¹ Information in the two tables has been provided by *Mission Armenia*.

- The state has no other alternative for providing the services;
- *Mission Armenia* has the support of international donors, which are also interested in making the services sustainable (as they fund most of them at the moment);
- *Mission Armenia* has the capacity, expertise and follows high service standards;
- The fact that *Mission Armenia* works at the local level enables it to get a good picture of the real problems and needs, which it then tries to address by developing a wide array of social services.

It is extremely important that the government recognizes that foreign donors may leave, but the social problems will remain. The problem with the insufficient state funding is related not only to the difficult economic situation that Armenia faces. It also relates to how the system is organized and how the money that is given is actually spent. The current arrangement of funding a small part of the expenses of *Mission Armenia* may well be due to a lack of budget funds overall, and not aimed specifically against the provision of social services. However, it has to be recognized that the governments in the region, including Armenia, cannot count on foreign donors or diaspora funding to finance serv-

Table IV. *Mission Armenia CSO cost-sharing contracts with Local Self-Governing Bodies in 2010*

No.	Community	LSGB investment		Mission Armenia investment	
		LSGB investment (% from the total cost of the contract)	Actual amount paid by LSGB (% from the total cost of the contract)	MA investment (% from the total cost of the contract)	MA actual amount (% from the total cost of the contract)
1	Kapan	16.0	10.7	84.0	89.3
2	Charentsavan	30.0	17.0	70.0	83.0
3	Sevan	30.0	9.4	70.0	90.6
4	Spitak	16.5	16.5	83.5	83.5
5	Masis	40.0	40.0	60.0	60.0
6	Verin Getashen	34.0	34.0	66.0	66.0
7	Vanadzor	20.0	8.3	80.0	91.7
8	Goris	29.4	29.4	70.6	70.6
9	Alaverdi	22.3	22.3	77.7	77.7
10	Chambarak	5.9	4.7	94.1	95.3
11	Tashir	8.0	3.0	92.0	97.0
12	Artik	11.3	11.3	88.7	88.7
13	Hrazdan	36.6	-	63.4	100.0
14	Sisian	7.0	-	93.0	100.0

ices that would be the governments' duty to provide. As seen from the case study, the fact that *Mission Armenia* stopped the service in one town has not changed state behavior – it has not provided more funding to maintain the service (and the same is the situation with the local authorities).

On the other hand, the fact that the government has started to finance some part of the services can be seen as an important first step in the process of the government assuming more responsibility. The Concept Note on Organization of the Process of Provision of Integrated Social Services is a good first step forward in recognizing the role that CSOs play in social service delivery. However, there need to be further steps by designing a specific procedure through which CSOs can be contracted and by providing in the state budget more funds for securing that social services are provided in the country (and to ensure that the vulnerable sections of society do not have to rely on foreign donors for their basic needs).

In addition, in order for social contracting to develop, there needs to be more competition. So the state needs to support the development of the capacity of other non-state service providers as well. More needs to be done in terms of empowering the local authorities to initiate social contracting competitions based on the local needs and selecting the best service providers locally (this power needs to be supported with money to finance it). In brief, the whole system related to social contracting should be developed.

IV. 3. Kazakhstan⁹²

IV.3.1. Context

The social protection system in Kazakhstan is different from the one in Armenia. The first important difference is that in Kazakhstan there is a focus on social services. Owing to the size of the country, the distances between cities are significant. So the government has decided to try to move away from the previous institution-type of services that were provided (for example, orphanages, homes for people with disabilities, etc.) because they completely isolated people from their community (as one respondent said, relatives could not visit their family member for years because the institution was in another town). A second difference is the mechanism of "social order" ("*socialnyi zakaz*", see below), based on which a partnership between CSOs and the government in the provision of services has been developing for some time now.

Kazakhstan: World Bank Data Sheet

GDP: 149,058,911,551 USD (2010)
 GDP per capita: 9,136 USD (2010)
 Population: 16,316,050 (2010)
 Poverty headcount ratio
 at national poverty line: 15.4% (2002)

Source: <http://data.worldbank.org/country/kazakhstan>

The key institution with regard to social policy in the country is the Ministry of Labor and Social Protection (the Social Ministry). It is in charge of designing the state policy, planning services and providing funds for their implementation.

⁹² The information in this section is based on document review and meetings/interviews held in 2010. Since then a draft law for amendments to the Law on State Social Contracts has been developed and was adopted by the Senate of the Parliament on 24 November 2011. ECNL would like to express special thanks to Aigul Kaptayeva, lawyer from the ICNL Central Asia Office which provided us with invaluable information on the law and its amendments.

Kazakhstan has a total of 14 regions. There are three levels of government – national, regional and local. There is some transfer of responsibilities from the national to the regional level. Governors of the regions (*akims*) are appointed by the President and they, in their turn, appoint the local level administrators. Taxes are collected by state employees who are located at the regional level. The only tax that goes directly to the local budgets is the land tax. Regions are free to determine the amount of the land tax within certain limits, as determined by law. Based on the obligations that regions have, the state budget makes transfers to them when the local budgets are short of their own resources. There are three regions in the country that are net donors to the state budget (rather than recipients of state subsidies) – Astana, Almaty, and Atyrau. This, however, does not preclude them from receiving funds from the state under special programs, for example, for the provision of specialized social services. The State Budget Law in Kazakhstan is adopted for a period of three years, which is beneficial from the point of view of longer-term planning, although there are still some restrictions on spending the budget subsidies received – they should be spent in the same year as received. This has a negative impact on the continuity and reliability of social service provisions (*see below*).

Kazakhstan has already had several years of history of social contracting of CSOs (*“socialnyi zakaz”*). In October 2000, in his annual speech to the nation, the President of Kazakhstan mentioned the need to create a “system of grants for implementation of socially important projects”⁹³ in order to support nongovernmental organizations. As a result of this, in January 2002, the government adopted “Concept of State Support of Nongovernmental Organizations of the Republic of Kazakhstan”⁹⁴. As a re-

sult of the state policy in this area, in 2005 a Law on State Social Contracts was adopted⁹⁵. It regulates the possibility for the state to request CSOs to provide different services in the areas of social assistance, culture, environment, etc. CSO services can be contracted at both the national and local level, so local authorities also have an option of contracting out services to CSOs using the provisions of the law.

In December 2008 the Government of Kazakhstan adopted the Law on Specialized Social Services, which targets specifically children with disabilities and the elderly. According to the law, special standards for these services are adopted and the state provides a special line in its budget for implementing these new standards. The budget provides additional funding for contracting CSOs using the mechanism of *“socialnyi zakaz”* (this money is additional to the already provided funding under the mechanism). As explained by the Social Ministry, the purpose of the law is to delegate provision of the specialized social services closer to the community, following strict professional and service standards. Initially (for the first several years), the state will fund these services with the aim that local authorities will later undertake the responsibility to fund the services out of their own budgets. Other social services, such as medical-social institutions and others, are usually the responsibility of local authorities.

The key institution with regard to civil society development and social contracting is the Ministry of Culture. It is the body within the government of Kazakhstan which has the task to communicate with and take into consideration civil society relations. The Ministry is the biggest contracting agency in Kazakhstan under state social contracting. Apart from its own objectives that are included in the social contracting announcements which the Min-

⁹³ Annual speech of the President “For free, effective and safe society”, Astana, 24 October 2000.

⁹⁴ Resolution 85 of the Government of Kazakhstan, 23 January 2002.

⁹⁵ Law on State Social Contracts, 12 April 2005.

istry publishes, it collects the requests for social contracts from some other ministries, for example the Ministry of Justice, and announces their tenders as well. This tendency is decreasing in recent years, but still there are Ministries that do not fully use the social contracting system.

It is for this reason that the amendments to the law from November 2011 state that all state agencies (ministries and local authorities) will have to include in their budgets money for social contracting. They have to provide social contracts to NGOs according to each institution's area of operation. In order to support the individual agencies, the government will create a Coordinating body with the following functions:

- Coordination of the activity on formation and implementation of state social contracting by other state agencies involved in the process
- Provide consultative and methodological support to other state agencies (consultation and trainings)
- Collect and analyze the monitoring data of implementation of all state social contracts in Kazakhstan
- Submit information on results of monitoring to the Government

In addition, the 2011 amendments to the Law on State Social Contracts provide for the creation of an electronic registry so that once an organization submits certain documents, it does not have to provide them for every single tender.

It is important to also note that the government is interested in the dialogue with civil society so each second year it supports a National Civic Forum. CSOs from the whole country are present there and they meet with

representatives of the government to discuss different issues. The last Civic Forum took place in 2009.

IV.3.2. Existing practices of social contracting

Kazakhstan is a vast country with financial resources larger than most of the other former Soviet countries. The availability of such funding allows the State to provide substantial financial resources to CSOs. This mechanism contributes to the improvement of access and quality of social services and at the same time, brings important benefits for CSOs in terms of their sustainability and enhancement of their social missions. In addition to providing support to CSOs and making sure certain services are provided, the decision to start providing funds to CSOs also plays an important role in balancing the financial inflow to Kazakh CSOs from foreign donors. So, in contrast to other countries in the region, state funding is an important financial source for local organizations.

According to the 2010 USAID NGO Sustainability Index, there are more than 31,201 CSOs in Kazakhstan, out of which more than 8,034 are public associations – the most common CSO form. The state finances CSOs in all regions, as well as at the central level, by using the mechanism of “social contracting” or “social order” (*socialnyy zakaz*). There is no other mechanism that the state uses to finance CSOs:

- There is no definition of state grants and this mechanism is not used in Kazakhstan;
- When the state needs the services⁹⁶ of NGOs, it uses “social order” mechanism (in essence “social contracting” is the mechanism to procure any kind of NGO services and activities).

⁹⁶ The mechanism of *socialnyy zakaz* is used not just for social services, but for any type of services or tasks NGOs can provide.

Since the introduction of the Law on State Social Contracts in 2005, the amount of money disbursed under this mechanism at both the national and local level has increased steadily⁹⁷. In 2006, the amount provided under this mechanism was a little over 300 million KZT (Tenge) (c. 2.2 million USD at the National Bank rate in 2006). In 2009 the received amount was 1.2 billion KZT (c. 9.9 million USD at the National Bank rate in 2009). In 2010, the amount committed by the state was a little over 1.2 billion KZT (c. 9.5 million USD at the National Bank rate). At the Civic Forum held in November 2009 in Astana, the Secretary of State, Mr. Saudabaev, committed that the amount of funding for CSOs would increase in the next three years to about 1.5 billion KZT (over 10 million USD) at the national level, and 1 billion KZT (6.8 million USD) at the local level.

According to the USAID NGO Sustainability Index, in 2009, CSOs received funding from five ministries at the national level and another three at the local level. The biggest amount of the social contracting budget falls within the Ministry of Culture (1.2 billion KZT in 2009 or c. 8.1 million USD), while the Ministry of Education and Science issued social contracts for 266 million KZT or (c. 2 million USD). The Ministry of Health had social contracting worth 40 million KZT or (c. 308,000 USD). One important fact with regard to the practice is that a large part of the money given for social contracts in 2010 has actually been budgeted for promoting the President's Statement "New Decade – New Economic Growth – New Possibilities for Kazakhstan" and for the tasks and perspectives that the speech reflects⁹⁸. The amount for this is 500 million KZT or (c. 3.4 million USD).

Under the new program for special social services, the Ministry of Labour and Social Protec-

tion planned to spend on social contracting 453 million KZT (about 3 million USD) in 2010. This would make it the second largest contractor after the Ministry of Culture. This money is transferred to local authorities (based on a very specific contract between the ministry and the municipality including requirements for monitoring the service), who in turn contract CSOs using the social contracting procedure. This is the case for part of the social services funded by the Astana municipality (see *the Astana Case Study for details*). As explained by the ministry, it tries to divide the social contracts into smaller lots so that more CSOs are able to access the funding and provide the services. It also tries to put in place such requirements at the time of preparing the documents for application such that only CSOs with experience and qualified staff can take part.

The practice of state "*socialnyi zakaz*", despite being criticized by some, has achieved one very important result – CSOs have become much more visible to state institutions and state institutions see the benefits of working with CSOs, and also use their capacities and expertise. Moreover, regardless of the deficiencies in the mechanism (including sometimes waste of money and dumping prices), there are a number of CSOs that undertake important activities with the help of this funding.

IV.3.3. Legal framework for social contracting

In December 2008, the Government of Kazakhstan adopted the Law on Specialized Social Services. This law details the basic division of responsibilities between the different institutions in the area of social service provision. All the people in difficult living conditions are en-

⁹⁷ The information in the brackets was provided by the Ministry of Culture at a meeting with them held on 26 July 2010. This amount does not include the budget planned by the Social Ministry for specialized social services.

⁹⁸ An argument against this policy could be that instead of promoting the speech and clarifying it, this amount could have been used for implementing the ideas in the speech itself.

titled to receiving social services based on an assessment of their needs. Social services are divided in three groups – guaranteed, additional and paid. The guaranteed social services are covered by the state. The decision on which services will be guaranteed is taken by the state. The decision on which services above the guaranteed will be supported, as well is taken at the local level (these are the additional services). The additional services are covered also by the local authorities and not by the beneficiary. All other services are paid by the beneficiaries. As explained by the Social Ministry, the purpose of the law is to delegate the provision of the specialized social services closer to the community, following strict standards. That is why social service provision, including the organization of competitions for selecting service providers, is left at the local level. Initially (for the first several years), the state will fund these services with the aim that the local authorities will later undertake the responsibility to fund the services out of their own budgets.

Service providers need to be licensed, regardless of whether they provide guaranteed services or paid services. They are subject to state control and are obliged to adhere to the service standards.

In line with the adoption of the Law on Specialized Social Services, the state has also introduced amendments to several other acts, including the Regulations for the Implementation of Procurement. One of the most important changes is that for specialized social services, competitions need to be organized at the end of the current year for services to be provided the next year. This would allow services to be delivered all-the-year-round (unlike the case with the other social contracting procedures described below). The state has also provided a special line in its budget with regard to implementing the Law on Specialized Social Services for contracting CSOs using the mechanism of “*socialnyi zakaz*”.

The Law on State Social Contracts adopted in 2005 is the basic law regulating the process of providing funding for CSOs for carrying different tasks. Apart from social services *per se*, the tasks may include programs, projects or certain activities in the field of demography, arts and culture, environment, protection of citizens’ rights and other fields. Social contracting in Kazakhstan means that the respective institution divides the budget it has for social contracting into lots (each lot is a separate service), and each lot can be contracted to only one CSO – the one that submits the lowest price under the lot. However, one organization can apply and win several different lots. There are several important aspects that have to be mentioned with regard to the Law:

- a. Until May 2007, the Kazakh Constitution prohibited financing of citizen associations. This is one of the CSO legal forms in Kazakhstan, but it is sometimes confused with the term CSO itself. So, despite having a special Law on State Social Contracts, some officials were not willing to use the procedure because of the Constitutional prohibition. After a CSO-led initiative, this has been changed and the ban was revoked. However, this may be one of the reasons why under social contracts the state does not fund any administrative/institutional expenses of the CSOs, but only expenses directly related to the provision of the service (for example, salaries). Even though the last amendments have not changed this aspect of the law, there are signs that the government may give a more favorable interpretation as to how to spend the social contracting funds, which would then include some administrative expenses.
- b. The Law covers a wider area of activities (such as culture, environment, etc.) and not just activities in the narrow social area (*as defined in the Glossary*).

Astana: The SAD Center

The SAD Center is one of the CSOs that has won the contract for providing social services in Astana for two consecutive years. The problem is that because of the specificities of the procedure (new announcement and competition every year), they signed a contract for providing the service in the second year only in March. So they had a group of children which needed the service, but they had no money to pay their specialized personnel in the first few months of the year. They subsequently had to use volunteer labor in order to ensure the service is not discontinued.

- c. Only CSOs⁹⁹ are allowed to compete for social contracts. Business entities or individuals, political parties, religious organizations and trade unions are excluded from being the potential suppliers of social services.
- d. The law does not provide for a separate procedure on how providers of social services should be selected so the general procurement mechanism applies. There have been several important exemptions created for CSOs because of state social contracts, like the exemption from the obligation to provide a financial guarantee prior to the competition (although a second exemption from providing a security deposit of 3% for successful completion of the service was revoked in 2007). However, the major issue with the process is the fact that the only criterion for selecting the winner in a competition is the lowest price. This creates numerous problems because there are CSOs that provide “dumping prices” in order to win the competition, and they thereafter find they cannot deliver the service. Or if they deliver, the quality is actually much lower. This similarly creates problems for the state because it cannot spend all the planned resources, and usually in the middle of the year there is a second announcement (and sometimes even a third one) for the money that was not spent in the first competition.
- e. Before the last amendments from November 2011, contracts could not exceed 12 months because all money needed to be spent in the budget year in which it was received. This did not allow for long-term engagement or provision of a service without interruption. There was no possibility for a CSO, once it won a social contracting competition, to get an extension and continue the service in the next year (or if the state is satisfied with the service, to make sure the same provider gets a new contract next year). Owing to this, CSOs had no interest in investing too much in developing a service because there was no guarantee they could sustain it in the longer term. The last amendments changed that position and provided the possibility of one- to three-year contracts. Even though this may require changes in some other Acts, it opens up the possibility for long-term financing.

⁹⁹ Art. 1, point 7 of the Law of the Republic of Kazakhstan on State Social Contracts defines CSO as “noncommercial organization (with the exception of political parties, trade unions and religious associations) established by citizens and/or non-governmental legal entities on the voluntary basis for the achievement of common goals by them in accordance with the legislation of the Republic of Kazakhstan”.

- f. Another related aspect is that the whole contracting process should be carried out and completed within the budget year. This means that even if, for example, the Ministry of Culture announces the tender in January, and the winners are selected only in April / May. The winners then receive the money that has to be spent by December 10, the date their report is due. That makes the timeline for effective delivery of services only five-six months at a maximum (as the money cannot cover costs incurred prior to signing the contract). In case there is money left from the first competition (which is a common situation), a second tender is announced (in May or June). These contracts are signed sometime in September, and so for the second group, the activities should be carried in three months if not less. This timeframe, in essence, does not support the provision of long-term social services (as opposed to one-off events, researches or trainings) like setting up a daycare center or feeding hungry people, simply because this type of service should be carried out 12 months a year. It remains to be seen how the possibility for long-term contracts (*see the bullet point above*) will affect this. There is a chance, though, that this problem will be overcome with the latest amendments.
- g. There is no clear mechanism for determining the priorities of the different lots of the social contracting competition. Each institution can determine what types of services it needs and then budget for it. The Ministry of Culture, as the most important ministry in the process (and the one that has the biggest budget for contracting CSOs), collects ideas for the specific lots, for which it will announce competitions from other state institutions and from CSOs (through the website <http://monitoring.academy.kz>). However, in the end, it is not clear how the exact lots are selected. More importantly, if a lot is announced one year, it is absolutely unclear whether the same type of activity will be among the lots in the following year.
- h. There is a special website (<http://monitoring.academy.kz>) set up by the Ministry of Culture on which the public can find information on all the lots and who won them, as well as additional information on the projects. There are a lot

Almaty Municipality: Social contracting allocations

The Almaty municipality is one of the biggest institutions contracting CSOs under the social contracting procedure among local authorities in Kazakhstan. In 2010, it will provide 80 million KZT (c. 542,000 USD), and the plan is that in the next year the amount will increase to 150 million KZT (a bit over 1 million USD). The municipality has set up a Public Council consisting of 48 people, of which only 25 % are from the local authority, while the rest are CSO representatives. The Council determines the lots that will be announced each year. The problem is that only three people in the municipality were in charge of monitoring what is going on with the projects so there was no possibility for really strict monitoring of what has been achieved. This task has been transferred to the Information and Analytical Center of Almaty, which has 25 employees.

Source: Tolkun Sametova, Almaty Information and Analytical Center.

of problems, however, with regard to the monitoring of individual projects and the activities carried out, as well as their results and impact (primarily due to the lack of human and financial resources).

- i. There are special tax exemptions for CSOs receiving social contracts – they do not pay corporate tax on the amount of the contract. Until 2009, such CSOs were also exempted from paying VAT with the contract money, but that has changed with the new Tax Code. There is also a discussion to exempt from social tax the salaries covered with money from state social contracts, but that has not been adopted so far.

IV.3.4. Case Study: Astana Municipality¹⁰⁰

General overview

Astana is the capital of Kazakhstan. It is one of the richest municipalities in the country with a population over 600,000 and growing. The municipality has experience in working with CSOs for several years. The area of special interest is supporting children with disabilities. During the Soviet period, children with disabilities were admitted to specialized kindergartens, where specialists took care of them. After the collapse of the Soviet system, this service was discontinued for lack of resources. This resulted in social isolation for such children at their homes, since regular kindergartens were not properly equipped to accept them. As a result of lobbying efforts by the parents, the municipality started supporting some CSOs that provided services these children at home or in a daycare center. This was done with municipal funding initially; for instance,

the SAD Center was the organization that on several occasions received support from the municipality to provide the services.

In 2009, after the Ministry of Labour and Social Protection started to support specialized social services for children with disabilities (based on the Law on Specialized Social Services adopted in the end of 2008), Astana was chosen as one of the four pilot municipalities where the ministry will support the provision of such services financially. As a first step, the municipality carried out a survey of how many children with disabilities are left at home without being able to attend kindergarten or school. In 2010, based on the information received, the municipality divided the city into three regions and announced three separate competitions for providing home-based services for children with disabilities. In two regions, the competitions were won by the SAD Center, and in one region, by The Union of Children with Disabilities in Astana. Before announcing the tender, the municipality consulted with CSOs on how to best structure the services¹⁰¹. Even though the children were divided geographically, they could still choose to get the services of the other CSOs (not the one working in their region). In this way, the actual clients could choose who will provide them with the service. This was especially important because in the case of social work, children get attached to the social worker so if the CSO provider changes, children could still go back to the social provider they liked.

When announcing the three tenders, the municipality set criteria such that only qualified CSOs could actually take part. These criteria included, for example, a certain number of specialists and a requirement that the organization have an in-house lawyer in order to

¹⁰⁰ The information in the case study is based on information provided by the interviews with representatives from the Employment Office of the Astana Municipality, SAD CSO and the Union of Children with Disabilities carried out in July 2010.

¹⁰¹ As explained by the Deputy Director of the Employment Office of the Municipality.

The Union of Children with Disabilities: Diversifying financial resources

Another initiative of the Union of Children with Disabilities in Astana: in addition to providing services to children in their homes, they have also set up a daycare center for these children. The center is funded by another donor. A group of volunteers helps to fundraise for surgeries needed for the children who are beneficiaries of the organization. Since 2009, more than 60 children have received financial assistance for medical treatment with the help of the organization.

provide legal advice when needed to children and their parents. In 2010, the municipality provided a total of 32 million KZT (c. 216,000 USD) for these three regions (the amount was similar to the one provided in 2009). The amount was based on the service standards set by the Social Ministry and the number of children that needed the service. However, the expenses that could be covered under the social contract did not include rent and administrative expenses.

The municipality monitors the quality of the services – they receive timesheets and service-acceptance reports from the CSO and then pay. They also call the parents to check whether they are satisfied with the service. Parents can also call the municipality, but so far there have been no such complaints.

In addition to this service, provided in the three regions, the municipality has also provided funding to another CSO for operating a daycare center. With regard to this service, there were some complaints from other CSOs that the requirements for participating in this service (which are set by the state) are too high – the CSO needs to have its own premises and has to provide a lot of space for each child served. This does not allow regular CSOs to apply because they do not have own premises, and they are not willing to make such an investment as it is not clear whether they will receive funding on a longer-term basis from the state as social contracts are concluded for a maximum duration of one year.

Another interesting service that has been contracted to a CSO is the so-called “taxi” for people with disabilities. Now 452 persons with disabilities can move around Astana without paying for a taxi. This service has just been contracted by the municipality to the Association of People with Disabilities (actually it was the Mayor that suggested such a service is needed). In addition to the traditional taxi service, this “taxi” also offers an assistance which takes you from your home and then on your way out, assists you to go to your destination (so it is a door-to-door service). The cost of this lot was 11.5 million KZT or about 78 thousand USD (for six months) in 2010.

All of the services provided with money under social contracts are free of charge for their users. A distinct aspect of the social contracting process is the fact that the CSOs that receive support from the Astana municipality actually fulfill their mission through providing these services. This is a very important distinction with other types of contracted services by the state (for example, construction work, waste disposal, etc.) because in this case CSOs continue to provide the service even when funding is not sufficient or sometimes missing. For example, because of the specificities of the social contracting process, in Astana contracts are concluded only in March. So for the first two-three months of the year, there is no funding for the respective services (and more importantly, these expenses cannot be compensated or reimbursed through the contract signed in March). Despite this fact, CSOs still provide the

service to the extent they can afford it on a voluntary basis. In addition, they try to attract additional resources in order to increase the quality of the services they provide or to provide additional services.

Conclusion: Factors of success or failure

The first important issue we have to point out in the Astana case study is that here the local authority/state has taken the responsibility to provide services to the vulnerable groups by designing new services (for example, the taxi service) and by providing funding that will guarantee that the services will be delivered. The municipality has identified the problems, but has also recognized that CSOs would be better suited to provide the services and that is why they use the social contracting procedure. The Astana Municipality is a good example that showcases both the challenges and benefits of how the system of state social contracts works in Kazakhstan. It is obvious that the long-term services are difficult to sustain in this system because the current system requires that competitions are organized annually.

Among the positive aspects, funding devoted for a specific social service in the municipal budget, which is continued for a second year in a row. This indicates that CSOs in Astana will be able to count on this resource for funding their activities in the future. Clients of the services are also assured that regardless of the provider, there will be a service delivered (even though this does not happen throughout the whole year because of the time necessary to announce and carry out the competition). This is a good practice in line with the encouragement of long-term partnerships and sustainability of service delivery. Another good thing about the Astana example is the fact that clients of the service were allowed to choose the CSO that can provide them with social services (and are not constricted to the CSO chosen for their region).

The case study actually shows the important benefits that accrue from CSOs providing social services. Even when there is no funding, CSOs (because it is within their mission and they feel responsibility for the people) try to provide the service and help their beneficiaries. In addition to this, they have participated in the design of the service so that it better fits the needs.

The example of these CSOs (for example, the SAD center had provided different services for children with disabilities and received support under different municipal programs) shows that once the municipality understands the problems and the needs of the people and they see the importance in providing services to satisfy those needs, they try to support the CSOs. They realize that with proper support, CSOs can become their partners in solving local social problems.

There are, however, several important issues which need to be taken into account when considering the improvement of the current social contracting system:

- The standards for some services (such as daycare centers) practically prevent most CSOs from taking part in the competition. This could be reconsidered – for example, the need to have an own building is not a necessary prerequisite for delivering good services.
- CSOs also face problems because of the prohibition to cover their administrative expenses with money from the social contract.
- Services such as the ones contracted in Astana require that the service is provided non-stop 12 months a year. The funding gap that, therefore, appears at the beginning of each year (because of the need to announce new competition) is a problem that needs to be solved. One simple way to do this would be to announce competitions at the end of

the previous year, so the services could start from January 1.

- In addition to the 12-month a year provision, there should be the possibility for long-term contracts for social service delivery. Such an option would allow CSOs to better plan their resources, and invest in training their personnel, as also in equipment and even buildings. Clients of the services often get used to the people that provide them the services so an annual change of the provider may lead to deterioration in services.

IV.4. Ukraine

IV.4.1. Context

In Ukraine, social services are primarily run by the government. At the same time, several forms of support for CSOs have been in existence for a long time and CSOs are often financed from the funds of the central or local government to provide social services. The system of social service provision, as well as the system for CSO support, is currently undergoing comprehensive reform in order to improve existing practices and introduce new mechanisms to address social development.

The responsibility for the provision of social services in Ukraine is divided among several ministries and state agencies, but the two main ones are the Ministry of Social Policy and the Ministry for Education and Science, Youth and Sports.¹⁰² The former is officially responsible for leading the reform efforts and has created a Working

group with representatives from both Ministries, as well as the Ministry of Economic Development and Trade, and other stakeholders, to develop the policy framework, including the framework and mechanism for purchasing social services provision (i.e. social contracting).

Ukraine: World Bank Data Sheet

Income level: Lower middle income
 GDP: 137,929,309,476 USD (2010)
 GDP per capita: 3,010 USD (2010)
 Population: 45,870,700 (2010)
 Poverty headcount ratio at national poverty line: 7.9 % (2005)

Source: <http://data.worldbank.org/country/ukraine>

In addition to the two main Ministries, through directly providing or supporting the provision of social services in various areas, the Ministry of Health is also involved, not to mention the agencies and institutions run by these Ministries at the *oblast* (governorate) and *rayon* (region) levels. Regional-level institutions have a strategic role in the budget process, as they are the ones that dispose of the central funds. The local authorities are also key stakeholders in the reform process. Finally, there are a few areas, primarily HIV/AIDS, where CSOs traditionally take the lead in service provision with funding from a global donor-funded program. In December 2010, by the President's Decree 1085, the State Agency on HIV/AIDS and other socially dangerous diseases, was formed¹⁰³. Therefore, one of the biggest challenges in developing a coherent and implementable policy in purchasing social services has proven to be **coordination** among the various actors.

¹⁰² After the Constitutional court's decision of September 30, 2010, the Ukrainian constitution was restored in its initial version of 1996. As the result, the President issued Decree number 1085 On Optimizing the System of Central Executive State Bodies that reformed the executive branch, reorganized several ministries, also creating new state agencies.

¹⁰³ President's Decree 1085 On Optimizing the System of Central Executive State Bodies, see the reference in Russian: <http://www.profiwins.com.ua/ru/news/1381-1085.html>

Currently, the Ministry for Education, Science, Youth and Sports has the most extensive network of social services providing institutions, which comprise a total of 1,888 local centers under the authority of 75 institutions nationwide. These primarily cater to the needs of families, children and youth, while the Ministry of Social Policy territorial centers in each oblast are responsible for the needs of the elderly and the disabled. The Ministry provides funding to its institutions based on the level of service they have been providing in previous years, supporting the running costs and staff of the institutions, but without a clear feedback mechanism as to how the support of the institutions relates to the changing needs in the communities.

According to policy experts in the field of child development, it is hard to speak of financing of social services in Ukraine because there is a lack of definition of the concrete services and their standards¹⁰⁴. Currently, only standards for social services for people with HIV/AIDS and risk groups were approved by three min-

istries both for public institutions and non-state providers (Order 3123/275/770). Rather, there are “social programs” and policy goals that are implemented through supporting various stakeholders, including CSOs.¹⁰⁵

There is cooperation happening with CSOs at the central level, but this is more in the form of professional partnerships than regular social contracting. Ministries often utilize the advice of experienced CSOs; however, such consulting services are usually paid for by donors of the CSOs. Ministries also cooperate with CSOs in organizing professional programs, for example training of educators or conferences for professional development – again, through co-funding of a donor. Finally, the Ministries also give direct budget support to CSOs, including subsidies and grants, but as yet the mechanism for providing these has not been transparent and has faced much criticism¹⁰⁶. On October 12, 2011, the Cabinet of Ministers approved the regulations on **CSOs’ projects funding via contests** (Resolution N 1049), aside of budget support to the CSOs of

Ukraine: CSO creating a model program

In 1993, the Hopeful and Homeless CSO established a model institution to prevent the abandoning of newly born babies, a home for mothers in desperate situation to raise their child. The Ministry of Family, Youth and Sports saw the positive results and started allocating money locally to build such centers. Today, there are 17 of them around Ukraine and still more are planned to be built.

¹⁰⁴ There have been earlier attempts to develop standards for social services, including a project funded by the European Commission. In July 2011, the Ministry for Social Policy reported that it had developed the matrix for social services standards to provide for unified methods for other ministries. However, these were not implemented as it was not clear where and who should adopt them; furthermore there was no political agreement reached on the framework for applying the standards.

¹⁰⁵ Although the Cabinet of Ministers approved special regulations for granting funds in line with each program, these funds are rather subsidies for specific events and/or institutional support of certain CSOs. Only three CSOs won official procurement procedures in 2009. (Information provided by Alex Vinnikov.)

¹⁰⁶ These are typically umbrella federations that used to be socialist mass organizations, which often administer the public subsidies on behalf of the competent ministry. As a result, participation in the calls for subsidies and grants tends to be limited. For example, only so-called all-Ukrainian youth organizations are eligible to apply to the State Agency for Youth and Sports for an annual budget subsidy, which means they need to be registered in Kiev and 13 oblasts and two-thirds of their governing board have to be representatives of the youth (people older than 35 years shall not have more than 1/3 of the seats in the youth organization’s governing bodies and 10% of all membership under Art. 5 of Law on youth and children associations).

youth and disabled people. These projects can cover social services, too. Its implementation would start in mid 2012.

There were earlier attempts to introduce licensing, but these were discontinued, as neither CSOs nor the administration was ready to adopt and apply licensing regulations. No licensing for social services is required after February 2010, except for ones in health care. Meanwhile, only non-state providers can be subject to licensing in question, and it constrains the competitive mechanisms.

It is an important factor in the development of the social services system of Ukraine that the training of social workers and social policy experts in higher education started 15 years ago. As a result, today there is a cadre of young professionals with a holistic understanding of the problems and who can play an active role in the reform process.

A key concept in the new policy will be **the shift from institution-based financing of social services to financing the service itself**, based on the cost of service units that are calculated according to certain standards in each respective area (for example, elderly care, disability care, children etc.). This process involves the definition of each concrete type of service, setting standards and calculating its costs – a lengthy and difficult process in itself. Yet this needs to be the basis of the new approach of the government: creating a market for social services in which government and non-state providers (including, but not limited to CSOs) compete to provide the best quality to the users. Contracting procedures and a new quality control and monitoring – supervisory system will complete the regulatory reform.

IV.4.2. Existing practices of social contracting

At the national level, it is important to mention that since 2007, there is a **Concept on Enabling Civil Society in Ukraine**¹⁰⁷, which lays out the most important directions of cooperation with support for civil society organizations by the government. Based on these directions, a number of laws are currently being revised or newly drafted (see **Section 3** below), which concern the more efficient and more transparent use of public funds in support of the CSO sector. The high-level commitment of the government to engage with CSOs provides a good basis to negotiate the appropriate role of CSOs in social services provision.

According to official data, provided by the Ministry of Justice and the local authorities in January 2011, there were 77,252 registered CSOs in Ukraine¹⁰⁸. As mentioned in the USAID 2009 NGO Sustainability Index, public funding accounts only for an insignificant portion of income for CSOs. Other experts stressed shrinking reliance on foreign funding; currently, only between one-third to one-fourth of all CSO income is from foreign sources. According to the Statistics Committee Bulletin “Civic Associations in Ukraine in 2010”, 19,500 CSOs received c. 593.5 million UAH (c. 74 million USD) or 21.5% of their reported annual income. Domestic public funding can be allocated through the national or local budget; for example, directly through the ministries or municipalities, although these mechanisms have some limitations¹⁰⁹. The reported CSOs income from these budgets is 220.7 million UAH (c. 27.4 million USD), or 8.0% of CSOs annual income.

¹⁰⁷ The text of the Concept in Ukrainian: <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1035-2007-%F0>

¹⁰⁸ Civic Associations in Ukraine in 2010 – State Statistics Committee, 2011 (http://ukrstat.org/uk/druk/katalog/kat_u/publposl_u.htm)

¹⁰⁹ The Budget Code and other budget laws provide for subsidies from the national budget only to CSOs having branches in the majority of governorates (14 or more oblasts, including Kyiv and Sebastopol cities). CSOs having local status may get direct subsidies from local budgets only.

Several ministries and other state institutions provide funding to CSOs under various social programs, from the Ministry of Culture to the State Service on Veterans' and Disabled Affairs. As to the local level, there is a **relatively widespread practice of supporting CSOs** through the "*socialnyi zakaz*", usually translated as "social contracting" mechanism. Initially, Odessa elaborated this model (see *Case study*) and several others followed suit over the last decade. This is essentially a broadly understood small grants program by the municipality to support CSOs operating in its territory and fulfilling important tasks for the community (mainly, but not exclusively in the area of social services).

The practice of "social contracting - small grants" is today applied in such towns as Kiev, Lutsk, Kamenets-Podolskyi, Mykolaiv, Boyarka, Donetsk, Kharkiv, Rivne, Ivano-Frankivsk and others – altogether in 15-20 out of 459 municipal towns. It can be seen that these municipalities can afford to undertake such a commitment, and have some level of their own income (from various local taxes – see *the Case study*).¹¹⁰ The funding is allocated from the local budgets. For example, in 2010 Odessa 350,000 UAH (c. 44,000 USD) was allocated for social projects. The same year, the total budget for social contracting in the city of Mykolaiv was 191,770 UAH (c. 24,310 USD). The funds are allocated for different social causes that are identified on the local level by the municipality, sometimes on an annual basis.¹¹¹

Importantly, only municipal councils are currently allowed to freely decide on how to spend the city's own income. Therefore, they can allocate some of their own income towards the support of CSOs. However, even then they will have to comply with central regulations on the use of public funds; for example, there is

a set – very low – level of daily allowances for food or transport of supported beneficiaries. The new Tax Code effective as of January 2011 improved the situation of beneficiaries by raising the amount of daily allowances and exempting disability CSOs from taxation. *Rayons* and *oblasts* (territorial units, see *Glossary*), on the other hand, may not dispose freely of their own income: even if the money was locally generated, it must be spent on delegated responsibilities from the national level.

An apparent problem in local service provision is the relative lack of CSO capacity, which means that many CSOs in Ukraine are professional, well-managed organizations, some with a nationwide network of supporters, but their combined efforts are still not enough to serve the needs of a population of 46 million people on a daily basis. In 2008, 200,000 people applied to CSOs for assistance, but only 30,000 received it, according to the Kiev Institute of Sociology. Also, apparently CSOs do not have as much of a presence at the local level – with the clear exception of municipalities that have already introduced social contracting. The representatives of the Ministry of Education, Science, Youth and Sports estimated that approximately 10% of all services could be contracted out to CSOs at their current level of capacity – though this is largely a rough estimate.

IV.4.3. Legal framework for social contracting

There is no national legislation as yet that would regulate social contracting as such. However, a number of laws at the national level concern the provision of social services, as well as CSO support. Several of these have

¹¹⁰ One interviewee made a note regarding Lviv – Lviv does not have a social contracting scheme, because CSOs in Lviv did not need it: they have always been abundantly funded by Western donors and were mutually not very interested vis-à-vis the local council in what the other may be able to offer.

¹¹¹ USAID NGO Sustainability Index 2009

been recently amended in a favorable way to facilitate the involvement of CSOs in the provision of social services and to promote public financing of CSOs. They include:

- **The Law on Social Services,**
adopted in 2003

According to the Law on Social Services, Art.1, social services are identified as “a complex legal, economic, psychological, educational, medical, rehabilitation and other measures aimed at specific social groups or individuals who are in difficult circumstances and need help (hereinafter - the person in need of social services) to improvement or reproduction of their livelihoods, resettlement and return to normal life.”

Social service providers can be state and communal enterprises and institutions, non-profit organizations and physical persons.

The law contains a non-exclusive list of types of social services¹¹², the order of social service provision, the rights and obligations of the social service provider, the rights of the beneficiaries, competition procedures and responsibility for the violation of the law.

Until 2009, there was certain discrimination against CSOs embedded in the Law on Social Services, since non-state providers were required to license all their services. However, on December 15, 2009, these provisions were repealed, followed by amendments to the Law on Licensing in October 2010, according to which the only services that are subject to license are now health services.

An alternative draft Law on Social Services was prepared by a group of CSOs recently; however

their lobby attempts have not been successful. At the same time, there is a draft concept on purchasing social services being prepared by the Working Group under the leadership of the Ministry of Social Policy, which is, however, progressing slowly due to the immense work involved in coordination and legal harmonization.

- **The Law on State Procurement,**
adopted in June 2010

The Law defines the procedure of open public procurement and two-level procurement procedure, where the participants provide information to qualify for the competition and provide price quotes in the second round of competition. The procedures apply to the threshold of over 100,000 UAH (c. 12,400 USD) for services. This law has been used a few times to purchase services provided by CSOs to the government. It has, however, proved burdensome and complicated to apply. There are currently laws planned to make it easier for organizations dealing with people with disabilities to take part in the procurement procedures for social services¹¹³. However, no generally applicable amendments have as yet been submitted. An alternative recommendation to introducing a new law on social contracting – which may be adopted faster – has been to amend the Law on Procurement in a way that special provisions would apply to the purchasing of social services.

- **The Budget Code of Ukraine and the State Budget Law of Ukraine**

As an important development, the new budget code adopted in July 2010 explicitly includes CSOs as a form of organization that may receive budgetary funds and prescribes the possibil-

¹¹² It has to be noted that while in Art. 5, the list of social services is non-exclusive, Art. 8 authorizes the Cabinet of Ministers to approve the exclusive list of these services as well as standards for their delivery.

¹¹³ This group of organizations, including both CSOs and enterprises, has been traditionally privileged in accessing governmental funds in Ukraine, see DfiD/FRSSU, 2007.

ity to designate funds for CSO support at all levels of the government. The new code effective from January 1, 2011, makes it obligatory to fund CSOs of veterans and people with disabilities, arts and culture CSOs, and youth and children CSOs from the national budget, while it leaves the support of other CSOs optional.

- **Other laws and regulations, including the Law on Associations, tax laws and the Law on Licensing of Certain Types of Economic Activities**

The Law on Associations¹¹⁴ contains Art. 24 that allows economic activities of associations via subsidiary enterprises. Ukrainian tax authorities usually interpret this regulation as proscribing direct economic activities of associations. However, Art. 8 of this law provides for tax preferences for economic activities both by associations themselves and their subsidiaries. The new tax code does not prohibit economic activities explicitly, but imposes some restrictions (for example, all economic activities shall be included in the association's articles,

and prices for their services shall be lower than market prices; besides, tax exempt income shall not be used for business purposes¹¹⁵).

The CMU Order N 1049/2011 on **CSOs' projects funding via contests**, and the development of the draft Strategy for enabling civil society, have already helped regional authorities to approve several long-term programs (even though they are not obligatory for municipalities). For instance, Kherson *oblast* council assigned 50 thousand USD for 2012 and 1.75 million UAH (215 thousand USD) for 2012-2015 for the social projects of local CSOs¹¹⁶.

At the local level, a number of municipalities have developed regulations for "*socialnyi zakaz*". These regulate the procedure of the municipality tendering small grants among CSOs that are active in a priority area determined by the city. While it is called social contracting in English, it does not cover service contracts *per se*; rather, these are regulations for a well-planned and transparent grants mechanism that focus on the thematic areas (for example, children, disabled, elderly) and

Mykolaiv: Contracting out municipal grant-making to a CSO

Mykolaiv presents an interesting example not only because it adopted regulations to support community-based neighborhood associations (self-governance bodies), but also because its Council decided to contract the administration of the small grants to an independent CSO. This has been prompted by the positive experience in this town relating to the local Community Foundation for Development of the town of Mykolaiv, a grant-making organization supported by various international donors. In view of the example of professional and effective management of a small grants program, and seeing the gaps in its own capacity to implement such a program, the Council decided to contract a CSO to undertake the administration of the process. Thus, in 2009, a tender was announced by the Department of Housing and Communal Services, and a local CSO Perspektiva has been awarded the implementation.

¹¹⁴ N 2460-XII of June 16, 1992

¹¹⁵ Par. 157.15 of Tax Code

¹¹⁶ <http://govgrant.org.ua/?p=1541#more-1541>

often essentially provide institutional support to the CSOs working in these areas. They have proven an important tool in the development of the local CSO sector, as well as in ensuring ongoing support to certain beneficiary target groups assisted by the CSOs. The city of Odessa pioneered the Regulations on Social Orders back in 2000 (*see Case study*). Other towns followed suit over the past decade. As one of the most recent examples, the 'Regulations on Annual Competition for Self-governance Bodies' was adopted in the city of Mykolaiv in 2009.

IV.4.4. Case Study: Odessa Municipality

General overview

The story of the Odessa Municipality Social Contracting model began 12 years ago, when a deputy of the City Council launched an initiative to institutionalize cooperation between the local authority and public associations. The deputies recognized the important work carried out by the associations in the city and agreed to establish a mechanism for cooperation, which they saw not as a "financial life support" for the CSOs, but rather a mechanism to help jointly solve the social problems in the city, implement common tasks and build social capital locally. Thus, the first and foremost condition of introducing the local social contracting mechanism, i.e. the **political will of the local authorities** was given in the city of Odessa.

The second condition was that of finding a **normative (legal) basis** for the procedure. There was no national legislation on this type of process (*see Legal framework above*). However, it was possible for the city of Odessa to make special regulations on spending the non-

state part of its local budget. Thus the first municipal regulation, the Decision of the City Council on Social Order was adopted in 2000.

Odessa is a big port town, with strategic positioning, and has regular income from various sources, such as local taxes and fees on tourism, port fees, market fees, communal income taxes and others. Therefore, it was able to afford the third important condition in the process, i.e. allocating **appropriate funding** for the purpose of social contracting every year.

The fourth condition, according to the local expert,¹¹⁷ has been the efficient organization of the **management of the funds**. Appropriate human resources – both paid and voluntary – have to be dedicated to the implementation of the mechanism, as it involves many different tasks and a lot of coordination. In Odessa, there is a Working Group, under the auspices of the Odessa Institute for Social Technologies (a non-profit consultancy institute hired for this purpose), which does all the groundwork, including technical and administrative work relating to the funding program. It also helps develop the methodology base. In addition to the Working Group, there is also the Commission, which is the governing and decision-making body in the process. The Commission consists of five deputies, five city administration workers and four CSO representatives. They agree each year on the priority program areas and evaluate the project proposals. There is no term limit for the membership, but members are typically rotated every four-five years, except for the key "founding" members who ensure continuity. In total, 30 out of 1,700 employees of the city administration work on the implementation of this mechanism.

In terms of the funding process, five main steps were identified:

¹¹⁷ Andrej Kroupnik, Odessa City Council

The first step is called “social diagnosis”, a community needs assessment carried out by the Institute in collaboration with the relevant department of the City Council. During this “diagnosis”, all social problems and needs are mapped with statistical and sociological tools, from the analysis of demographic data to surveys and focus groups or the analysis of complaints received by the municipality. Every few years, this assessment is done thoroughly, while in other years, the information is updated.

In the second step, the City Council agrees on the priorities and on which ones it will to address through social contracting with CSOs. This results in the Municipal Decision on the Annual Program for Solving Priority Social Problems in the City of Odessa with the Assistance of Social Contracting Mechanism. The Program details the tasks (for example, improving the situation of homeless children) and prescribes the participation of CSOs in solving those tasks. “In drawing up a Community Care Plan a social services authority needs to take key strategic decisions about how far it intends to remain a direct provider of services, and how much service it will be seeking to purchase from other sectors. This is a major local political decision.”¹¹⁸ There is a budget allocation for all the tasks as well. In 2010, for example, the Program allocated a total of 350,000 HRN to address seven priority program areas.

The third step involves running the tender competition. At the start, the Mayor announces the competition through a Decision. The Decision includes the key problem areas and tasks, eligible organizations, deadlines for the application, application form and document samples, and a budget template. (Special emphasis is paid to the ratios between salaries and direct project costs, i.e. the salaries cannot constitute the largest expense of the project.) There is usually a three-week time pe-

riod for CSOs to apply. During this period, consultations are held twice to help prepare CSOs for successful application. Submissions are paper based, and in a closed envelope.

When the Commission opens each envelope, it makes 14 copies of each application for distribution to the members. On average, the Commission receives 60-70 applications. Evaluation is based on a rating system, whereby 10-criteria for evaluation can be awarded a maximum of 10 points each. Therefore, the maximum points that can be awarded to an application are 100. Commission members have one week within which to evaluate and score the proposals. After a technical ranking order based on the scores has been generated, the Commission discusses each problem area and agrees on the CSOs to be supported (based on their general score and the importance of the problem). Generally, the Commission is able to support up to three proposals in each problem area; for example, in 2009, 18 projects in six problem areas were awarded out of 58 applications.

CSOs with representatives sitting in the Commission may also apply, but their representative cannot take part in the evaluation of their proposal. When a CSO is rejected, the Commission does not provide an explanation, but the CSOs usually ask for a reason, and get a chance to learn from their mistakes if they are interested.

The fourth major step is the implementation of the project. Contracts are drawn with the winners of the awards by the respective departments of the municipality. Sometimes the Commission decides to award less money than what was requested. This can happen in case the CSO fails to secure the required matching funds from non-state sources; then the contract may be drawn for an amended (lesser)

¹¹⁸ Flynn and Common, 1990.

amount. However, CSOs are usually able to raise additional funding. They have noted that often the support from the municipality serves as a stepping stone for the CSO to raise funding from other sources. While the funding is only for one year, CSOs are allowed to apply every year and are evaluated based on their merits every time (i.e. it is possible for a CSO to receive funding over several years). When the contract is drawn with the municipality, the department orders the payment from the Treasury and the CSO has to claim the funds from the Treasury directly.

In the fifth and final step, the municipality receives the reports by the CSOs on the project implementation. There is some publicity provided to the outcome and results; for example, through presentations of the successful projects, case-study books, and meetings where the winners who have successfully implemented the project receive a certificate.

Conclusions:

Factors of success and failure

Over the past 10 years, the Odessa municipality ran eight competitions, in which 383 projects participated, 155 projects were funded, 2,384,000 HRN from the city budget and 9 million HRN from other sources (as matching funding, material and in-kind) was allocated to resolve the social problems of the city. It can be seen that the city has gained with this mechanism in terms of financial resources from other donors that were directed towards the city's priority problems, as also in terms of CSOs and local citizens taking far more responsibility in solving these problems.

Conclusively, the Odessa example can be considered a success story in terms of **creating a sustainable mechanism of engage-**

ment of the local government with the CSOs to address jointly the key problems in the city. The learning points from the city's success have been summarized above, as presented by the representatives of the Council and the Commission, and include the need for political will and initiative, enabling legal framework, sustainable funding, and efficient and transparent administration of funds.

There is also the need to **involve CSOs in the design** of the mechanism from the outset. In Odessa, according to our interviewee¹¹⁹, the CSOs initially did not like the idea of competition, but they came to see the benefits of it over time. In other instances, the local council may involve a wider pool of CSOs already at the stage of designing the rules of the competition to enhance ownership of the process as early as possible.

On further challenges and the need for improvements, one should note the need to **transfer leadership** in this mechanism (both political and administrative) to other actors – for example, by introducing term limits for the Commission members – so that success does not become too dependent on one or a handful of figures.

Furthermore, it would seem timely and beneficial if the public (as well as Council deputies) were acquainted not only with the results of the annually implemented projects, but also with the larger **social impacts** of the funding mechanism over the years. This mechanism has been in place for 10 years now, so there must be a way to measure its contribution to resolving the social problems that were identified (many of them recurring over several years) and how the projects resulted in a better life of the community at the impact level (for example, how there are less homeless children on the street or more

¹¹⁹ Andrey Kroupnik, Odessa City Council

disabled young people employed). If an impact study could demonstrate convincing data in satisfying local needs, this would act as a clear statement not only for other municipalities, but also for the central government on the value of CSOs in contributing to social and economic development.

In summary, while the “*socialnyi zakaz*” is not, strictly speaking a model in contracting social services, and its scope extends beyond social services, the CSOs that have been supported

through this mechanism have had the chance to invest in their institutional development, as well as in the development of their services, and some of them have become a potential partner for the local government to actually contract services on a fee basis or through normative support. Therefore, the Odessa example illustrates the importance of the **government investing in the long-term institutional development of CSOs** to prepare them for their future role as the “only” providers of social services.

V. Recommendations

The recommendations provided here are based on our research in the three countries studied, as well as comparative information from a number of other countries in Europe. Some of the recommendations address specific problems found in specific countries that might not be issues in other countries. On the whole, however, we have included recommendations that could be applicable to all the countries in the CEE and CIS region.

1. Responsibility for social services should remain with the government; however service provision may be contracted out

As stipulated at the outset, governments have **an obligation under the international law to ensure the provision of basic social services** to the population. In case the government does not fulfill its obligation to provide social services, there could be no systematic way to organize social contracting because decision making on the need for social services and the need to contract out such services will be arbitrary, and can be taken based on individual preferences and opinions. This runs against efficiency and accountability in public spending. From among the countries examined, Armenia stands out as a country in which the social area is within the 'voluntary' (discretionary) responsibilities of local authorities. While many stakeholders, including the local authorities, are making important efforts to address pressing social needs,

an obligation for the provision of certain basic services will need to be introduced to achieve a long-term solution.

In shouldering its responsibility, **the state needs to design an appropriate policy framework** to deliver social services to the population in need. This does not necessarily mean that the state has to deliver the service itself through its own institutions. Based on the perceived advantages and considering the potential risks of the given context, governments may introduce social contracting as either the main mechanism or as a complementary mechanism for social service delivery. However, if and when it decides to contract out the social services delivery, it will still need to ensure at least two things as part of its overall responsibility: (a) providing adequate funding, and (b) making sure social services adhere to certain standards (so to ensure that beneficiaries' needs are addressed in the appropriate way). For example, if service users are dissatisfied with the services, it should be the obligation of the state to change the service provider or the type of service delivered.

2. Governments should ensure funding of the cost of social services that they have a legal obligation to provide

By default, the **government should fund the total cost for the social services** that it has a legal obligation to provide (including national

and local legislation). In cases where there is no legal obligation, for example in complementary or alternative services, the government may decide to fund only part of the service while recognizing if they are important for a specific part of the population or contribute to the welfare of all local citizens. In general, however, when there are strict standards and other parameters for social services, the government should be prepared to fund the costs of social service in exchange for the desired quality and quantity of the service.

Putting the beneficiary perspective at the heart of the social services provision, there is also the need to secure long-term sustainability of the services. This means that **funding should be predictable** so as to enable CSOs and other non-state service providers to plan the future service provision having an indication of the approximate funding that will be available for this type of social service. Once funding is predictable, CSOs may be willing to invest in developing their capacity for social service provision, including buying technical equipment because they will know that this investment could be used in the future. If funding priorities change annually or if only short-term contracts are awarded, CSOs are not likely to invest in building their capacities for long-term social services delivery.

Predictable funding is more feasible when the government (national or local) has a clear policy aiming to support the social service delivery. In addition, it is important that in the budget (local or national), there is a separate/ distinctive line item for social services that does not change unpredictably or dramatically each year. Possibly, a separate fund could be established for this purpose. Predictable funding also means that multi-year planning is possible, thereby allowing a service provider to enter into long-term (multi-year) agreements. This

is of utmost importance from the beneficiary perspective, as a multi-year funding framework provides for continuity of service, as also continuity of familiar service providers (so long as the provider is providing good quality services in line with the prescribed standards). For services targeted at certain vulnerable groups (for example, daycare centers for children with autism), continuity of service, as well as familiar, known service providers are of utmost importance.

3. There is a need to make a difference between grants and social contracts

Grants are a form of direct funding for specific activities/ projects proposed by the CSO within the scope of general programs announced by the government¹²⁰. Their purpose is generally twofold: to achieve specific results in line with the government's social policy, promoting social innovation, and to support the civil society sector. Social contracts have as their main aim the delivery of strictly defined social services. They are closer to procurement, although there are some very important differences: for example, lowest price is not the most important evaluation criterion. So when a social contracting system is designed, it has to determine **the purpose of the social contract** – to ensure good quality social services, to provide funding to the CSO sector, or both. The Kazakh system, for example, even though it uses the term “social contracting”, aims to a large extent to support civil society organizations as an equally important goal in ensuring the provision of social services.

It is important to make the distinction between grants and services when providing funding to CSOs. Grants are a good tool to solicit **innovative ideas** on the side of CSOs; they are less suitable to fund specifically determined

¹²⁰ See Section II.5 or the Glossary for a more detailed definition of grants.

services. Grants are also a good mechanism to strengthen the capacity of CSOs, including their capacity for the provision of social services. They can also be used to design or pilot innovative/ new social services for which there are no existing service standards, or for which results/ parameters are difficult to estimate. In this way, grants can be an effective vehicle to achieve the government's social policy objectives as well.

Social services, on the other hand, are more often related to **longer-term engagement** with the target groups: for example, assisting a child with disabilities is not a one-off event, but requires a longer period in order for the child to get used to the social service provider and to get some results. Therefore, the government could establish a longer-term partnership with a relatively smaller number of CSOs with the capacity to cater to the needs of the local population. The municipalities of Astana and Odessa are examples of having made steps in this direction by announcing their support for the same social services in consecutive years (see **Sections IV.3.4 and IV.4.4**).

It would be important that each of the countries in the region considers introducing *both* of these mechanisms and using them depending on the needs and resources available. The two tools **can be combined to enhance the system of social contracting** as well. For example, the government can provide grants for increasing the capacity of certain social service providers and then announce a social contracting competition for the provision of the specific service. The state may also design grant programs to **provide co-financing to other donors' programs** which target the delivery of specific social services. This would guarantee that CSOs (which otherwise might not be able to secure the co-financing and hence apply for such programs) would be able to access the funding and provide the needed social services. A similar example is presented in Ar-

menia, where several municipalities agreed to partially fund the CSO, *Mission Armenia*, as a way to contribute to its work in their communities, which is primarily funded from international support (see **Section IV.2.4**).

4. There is a need to create a specific mechanism and develop guidelines on social contracting

The lack of regulation of social contracting is an impediment to developing it. It is advisable to develop nation-wide legislation to regulate this area. However, even when there is no mechanism or procedure adopted by law, the local or national authorities could design their own regulations that could serve as a basis for social contracting. This is important because it makes the process a systemic one that is transparent and open, rather than depending on arbitrary decisions and individual relations. In either case, there is a need for a separate regulation on social contracting, different from the traditional procurement mechanism. One reason is that often procurement is overly burdensome for smaller local governments and civil society organizations. More importantly, under procurement, the leading criterion for determining the winner is typically the lowest price (this is the case in Kazakhstan where social contracting uses the procurement procedure). **The lowest price should not be the leading evaluation standard in social contracting**, because in social services provision it is important to obtain the best possible quality or standard quality service for more people at a certain price. In addition, the effect of dumping prices leads to problems for the beneficiaries in the end as once the service provider gets the contract at a dumped price, it cannot deliver the services at a reasonable quality.

The social contracting mechanism should also:

- Provide for longer-term contracts - the need to organize a new social con-

tracting competition each year might be good for one-off events, but does not support social service delivery that is continuous and predictable, which is important from the beneficiary perspective;

- Ensure there are no requirements that are unnecessarily burdensome for applicants; for example, too many documents required at the time of application or burdensome requirements for potential candidates;
- Provide for a possibility to include the administrative expenses, as well as organizational and capital expenses, of CSOs in the allowed expenses. For example, in Kazakhstan, this is currently not allowed; creating problems for CSOs because they have to co-finance the service for which they are contracted. In addition, CSOs, similar to private companies need to have offices, accountants and other personnel related to the successful operation of the organization. As long as these costs are reasonable, they should be part of the recognized expenses;
- Ensure the whole funding and selection process is fully transparent. This includes clear evaluation criteria, clear criteria for choosing the thematic calls or lots, as well as publicly accessible information on how many CSOs receive money from the government in all possible areas, including the amount of funding allocated.¹²¹

There is also a need to develop guidelines and model contracts which each potential contractor can use to set up its own procedure for social contracting. *For guidance about what such a procedure should look like please refer to the Annex – Guidelines for Introducing a Social Contracting Mechanism at the Local Level.*

5. Beneficiaries' rights and needs should have a central place in the process

Following from the HRBA, the rights and needs of beneficiaries should be considered and respected when designing a social contracting model. There are several good practices demonstrated in this Handbook, as well as in the referenced literature, to help ensure the inclusion of beneficiaries in the process. First and foremost, beneficiaries should receive services that are based on their needs and not based on the decision of someone seated in an office in the capital. This calls for a decentralized and participatory approach in determining the priorities for the social services. There are several ways to ensure this:

- **Service design:** Local authorities should have not only an obligation to ensure the provision of the appropriate social service, but also the competence to decide on the programming of social service support. They should determine the priority needs through a community-based mapping exercise, such as the “social diagnosis” described in the Odessa case study (**Section IV.4.4**). The Astana case study also demonstrates the importance of involving CSOs that are most familiar with the beneficiaries in the early phase of the social service design (**Section IV.3.4**).
- **Service delivery:** As far as possible, the choices for beneficiaries should be provided in the social service delivery – the Astana case study, where the children can chose to stay with their caretaker throughout the program, is a good example of this (**Section IV.3.4**). The voucher system described in this Handbook is also a possible way to encourage beneficiary choice (**Section II.5.1**).

¹²¹ The website of the Ministry of Culture in Kazakhstan is a good example – see point h) from the Section IV.3.3. Also see Odessa example, where the announcement and the results of the competition are posted on the city council's webpage: <http://www.odessa.ua/en/acts/council/28568/>.

- **Service monitoring:** Monitoring and evaluating the service is not just the job of a monitoring agency. Service beneficiaries and the larger community should also have the option to take part in this process. There are different forms of *citizen engagement in the oversight process*, such as complaint desks, integrity packs, citizens' report cards, and multi-stakeholder forums. There are good examples for monitoring the quality of services with the help of beneficiaries; for example, the fact that parents can always call the municipality of Astana if there is a problem with the service provider, or the creation of *Councils of service clients* in Bulgaria that monitor the quality of the service.

6. Governments should invest in the capacity development of local authorities and CSO service providers

In order for the process of social contracting to be properly implemented, there is a need to have qualified civil servants that understand the ideas and purpose of the process, as well as the technicalities of the procedure. Governments should focus on **increasing the capacity** of the public officials that deal with designing of social contracting procedures, carrying out, evaluating and monitoring social contracting. Officials should also understand the importance and added value of involving CSOs in the social services delivery system.

The **sequencing of such investment is a critical challenge** for many governments, as they cannot implement an effective social contracting system without the capacity, even as the immediate and ongoing need to deliver social services puts a serious resource constraint on the capacity development process (both financially and in terms of availability of human resources). This dilemma can be overcome by taking a more *sequential ap-*

proach to introducing social contracting; for example, by launching a systematic effort initially only in certain territories or in certain types of social services. It is advisable to start with areas where the essential pre-conditions are met: for example, there are enough capable CSOs, social service standards are already developed and/or local authorities have not only the mandate, but also the financial resources. A gradual approach provides the opportunity for focused learning and skill building of a specialized part of the administration, which can then pass on the learning to other departments.

On the other hand, CSOs are a key actor in the social contracting process. Often, they do not have the necessary equipment or access to finances to be able to match the requirements for delivering social services. This should not be seen as an obstacle by the government, but rather as an opportunity. The **government should support CSOs** by providing them with training, access to funding, etc., in order to support their capacity building and sustainability. In this way, CSOs can become better and more reliable partners to the government in delivering social services. This is well illustrated by the Odessa case study (**Section IV.4.4**), where the municipality has been providing institutional support to CSOs, which have in turn developed to deliver higher quality services.

7. CSOs should be allowed to carry out direct economic activities

Armenia is one of the few countries in the CIS region that does not allow all the CSOs to engage in direct economic activities. This **influences the capacity of CSOs to deliver social services** for two reasons:

- Social contracting, in its essence, means hiring a service provider to deliver social services for a fee. If interpreted in the strictest sense, this is an economic activity as it generates income for the service provider. A prohibition of econom-

ic activity would then mean that CSOs technically cannot participate in social contracting procedures.

- Economic activity is a way for CSOs to have an independent source of income, which helps them carry out their activities in a more sustainable and predictable way. For example, in some countries clients of social services pay for a portion of the services they receive. If economic activities were illegal, this would not be possible. In addition, this would limit the capacity of CSOs to attract additional funds (which could be used for improving the quality of the service).

Economic activities are a legitimate way for CSOs to acquire funds for achieving their goals and are in fact one of the biggest sources of income for the CSO sector globally¹²². Several countries even provide special tax exemptions on the income generated from such CSO activity. Of course, governments can place some restrictions on these activities, for example, requirements can be put in place for the income to be used solely for the CSO's goals or the introduction of tax exemptions for income only up to a certain level. The most typical policy of governments towards CSO economic activity is to allow it, but with some restrictions (for example, allow only economic activity related to the mission and statutory goals of the CSO; require that it is additional and clearly distinguished from the non-profit activity, etc.).¹²³

8. There is a need to effectively monitor how social services are provided

It is not sufficient to secure funding and contract a non-state entity to provide the service. It is also necessary to **make sure that funding**

is used appropriately and the social services are delivered as per the contract. There are various levels of monitoring and evaluation:

- (1) The first one is a technical, *administrative check* to make sure all documents are legitimate and all expenses made are within the budget (in case there is a budget). This is an important check, but it should not become too formal. Often, the monitoring authority becomes overly bureaucratic and this might impede the effective implementation of the projects related to social services provision.
- (2) The second, and sometimes more important form of monitoring is to make sure that *social services are actually delivered*. For example, if the contract is for home assistance, it is important to make sure the home visits are made and not simply that the time of the social worker is billed.
- (3) What is even more important is to evaluate the *effectiveness* of the activities carried out – in the example above, that would mean to determine whether the social worker assisted the client according to her needs and did not impose on the client something that she/ he was not comfortable with, and that the home assistance contributed to the long-term objective of the social service (for example, keeping the ability of the client to live in her/ his home rather than being placed in a residential institution). Thus, this evaluation can help in achieving client satisfaction and an improvement in the life of the service user.

Monitoring is necessary because often circumstances change. This requires a **change in the activity or approach**. If there is a person

¹²² Salamon et al, 2007

¹²³ For more, see ICNL and ECNL, 2007

that has been following the situation, he or she may understand the reasons and agree to make the requested change of activities. Otherwise, CSOs may be obliged to do what they wrote down in their offer without taking into consideration the real-life situation.

It is also worth **including CSOs in the process of monitoring**, as they would be best positioned to judge how much the purposes of the funding were achieved. While their role is limited when monitoring their own services (i.e. to providing the data for indicators stipulated in the contract); CSOs can be very helpful in conducting monitoring and evaluation at the program level, for example, to evaluate the overall impact of a three-year municipal program addressing a specific problem related to a certain target group which the CSO is familiar with.

9. Social contracting works best as a partnership

In the process of social contracting, CSOs, governments (both central and local) and businesses are partners who aim to improve the situation of the people in the local community. That is why the **aim of their cooperation should be that people who need social services, have equal access to them** and they are assured that regardless of a possible

change in the service provider, the social service will have the continuity. The partnership can be more effective when it is *documented* in a policy framework for cooperation (as in Odessa, see **Section IV.2.**), or expressed in a jointly prepared regulation as is the case in several municipalities in Armenia (see **Section V.2.2.**)

As demonstrated through this Handbook, CSOs are valuable partners since they work closely with the communities. In the good practice examples included in this Handbook, **CSOs are not just seen as service providers, but as participants in every stage of the social contracting process** – from developing the social policy to evaluating the needs and designing the specific services and eventually in providing those services. The quality of social contracting depends highly on the good results of each of these stages.

If a service is to be of good quality, providers need to invest in it. This is possible only if there is the possibility for long-term involvement in the service delivery, which happens with long-term contracts. **Long-term contracts allow for partnerships between the government and service providers**, rather than perceiving them just as vehicles delivering a needed social service.

Glossary

All definitions have been formulated by ECNL for the purposes of this Handbook based on the relevant literature, except when a direct reference to the source is provided.

Accreditation of services means evaluation of the service by an authorized body to ensure that it meets specific requirements (complies with certain standards) and prevents potential risks for the service beneficiary.

Akimat is an administrative municipal unit in Kazakhstan.

Basic or primary social services are social services defined in some laws as services provided at the community level for everyone in need, mainly aimed at prevention and limitation of factors leading to marginalization (e.g., youth centers, family help centers, job centers, hotlines, counselling, legal aid etc.). [c/f *Specialized social services*]

Best value concept originates in the UK Compact and refers to the selection criterion for a tender with an announced budget allocation on the basis of the highest quality of the offer at the given price.

Certification of services means confirmation of compliance with certain standards by the providers of the service (i.e. confirmation of the professional competence to provide the service).

Civil Society Organization (CSO) includes all types of nongovernmental organizations and organizations established with non-commercial purposes which in different countries may take the legal form of public organizations, associations, foundations, institutions and not-for-profit companies among others.

Commonwealth of Independent States (CIS) is a regional organization of some former Soviet Republics created in 1991. Presently, there are 11 members of the Commonwealth: Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine.

Community social services are services that may be provided outside a residential institution and at the community level to those in need, regardless of the target group or the level of specialization needed for the service. Community services are also defined as non-institutional services. For example, in case of a child without parental care, an orphanage would be an institutional service, while foster care is a community service. [c/f *Institutional services*]

Compulsory social services: see *Statutory social services*

Corporatist welfare: see *European Welfare Regimes*

Cost sharing means that part of the costs are borne by a different donor.

Decentralization, according to the definition of the Decentralization Thematic Team of the World Bank, embraces a number of concepts based on different characteristics, policy implications, and conditions for success. Essentially, decentralization means “the transfer of authority and responsibility for public functions from the central government to subordinate or quasi-independent government organizations and/or the private sector.” The types of decentralization include political, administrative, fiscal, and market decentralization. They can appear in different

forms and combinations across countries, within countries and even within sectors.

Political decentralization aims to give citizens or their elected representatives more power in public decision-making. Political decentralization lies at the core of the participatory democracy, assuming that decisions made with greater participation will be better informed and more relevant to diverse interests in society than those made only by national political authorities.

Administrative decentralization seeks to redistribute authority, responsibility and financial resources for providing public services among different levels of government. It is the transfer of responsibility for the planning, financing and management of **certain** public functions from the central government and its agencies to local authorities. Administrative decentralization can be of three major forms:

Deconcentration, that redistributes decision making authority and financial and management responsibilities among different levels of the **central** government. It can merely shift responsibilities from central government officials in the capital city to those working in regions, provinces or districts, or it can create strong field administration or local administrative capacity under the supervision of central government ministries.

Delegation, when central governments transfers responsibility for decision-making and administration of public functions to semi-autonomous organizations not wholly controlled by the central government, but ultimately accountable to it. Governments delegate responsibilities when they create public enterprises or corporations, housing authorities, transportation authorities, special service districts, semi-autonomous school districts, regional development corporations, or special project implementation units. Usually these organizations have a great deal of discretion in decision-making.

Devolution is the third type of administrative decentralization. When governments devolve functions, they transfer authority for decision-making, finance, and management to quasi-autonomous units of local government with corporate status. Devolution usually transfers responsibilities for services to municipalities that elect their own mayors and councils, raise their own revenues, and have independent authority to make investment decisions.

Fiscal decentralization refers to the possibility for local authorities to charge fees and levy taxes on the inhabitants/businesses in the area that would go directly to the local budget or to withhold part of the taxes that the central authority levies. It can take many forms, including a) self-financing or cost recovery through user charges, b) co-financing or co-production arrangements through which the users participate in providing services and infrastructure through monetary or labor contributions; c) expansion of local revenues through property or sales taxes, or indirect charges; d) intergovernmental transfers that shift general revenues from taxes collected by the central government to local governments for general or specific uses; and e) authorization of municipal borrowing and the mobilization of either national or local government resources through loan guarantees.

Market decentralization shifts responsibility for functions from the public to the private sector. It can happen in the following forms:

Privatization is a phenomenon that can range in scope from leaving the provision of goods and services entirely to the free operation of the market to “public-private partnerships” in which government and the private sector cooperate to provide services or infrastructure. It can include: 1) allowing private enterprises to perform functions that had previously been monopolized by government; 2) contracting out the provision or management of public services or facilities to commercial enterprises; 3) financing public sector programs

through the capital market and allowing private organizations to participate; and 4) transferring responsibility for providing services from the public to the private sector through the divestiture of state-owned enterprises.

Deregulation reduces the legal constraints on private participation in service provision or allows competition among private suppliers for services that in the past had been provided by the government or by regulated monopolies.

(This classification is based on definitions provided by the *Decentralization Thematic Team of the World Bank*. Available at: http://www.ciesin.org/decentralization/English/General/Different_forms.html)

Deconcentration. See *Decentralization*.

Delegation. See *Decentralization*.

Deregulation. See *Decentralization*.

Devolution. See *Decentralization*.

European Welfare Regimes - below is a summary of the classic welfare regimes that were developed in Europe over the past century and a half. It is important to note that these are not clear-cut models, e.g. Britain today has an institutional model of welfare (accessible to everyone) mixed with the needs based selectivity (focused on populations in need) and mixed service provision (both public and private providers) of the liberal regime. Social contracting, although in different ways, plays a key role in the corporatist and liberal regimes, while it is less pursued in the social-democratic model.

Corporatist welfare regime originating in the 1880s Bismarck regime of Germany, has been based on a social security system in which wel-

fare expenditure is financed from mandatory payroll taxes and benefits are related to the merits of employment (e.g. length of time served, level of income earned etc.). The corporatist nature of these systems originates in the fact that workers' associations and other collective organizations ran the public insurance funds in Germany and Austria. In other continental regimes, e.g. France, Belgium, the principle of "*solidarity*" is also key in welfare provision (mutual societies and insurance funds etc.). In these systems welfare can be defined as a "*benefit*" linked to contributions.

Liberal welfare regime. In this model, which has been typical in the common-law countries, public welfare exists in parallel with private insurance mechanisms and is oriented towards the poor population which cannot afford the higher costs of the latter. It is seen as a "*safety net*" for the poor and will often result in a two-tier system of poor quality public welfare services and high quality private ones. It operates on a "*residual*" principle, i.e. public welfare is provided to those who are left out of the market based solutions.

Social-democratic welfare regime. In this model public welfare services are provided to everyone (i.e. based on *rights* rather than on need or contributions). The model has an "*institutional*" approach, which in contrast to the residual approach operates on the principle that welfare is for everyone. Typical in the Scandinavian countries, this system provides high quality services with universal access but tailored to individual needs. While seen as ideal by many, the costs of this complex model are very high and impose a high tax burden as well as sophisticated administrative capacity.¹²⁴

Gross Domestic Product (GDP) is the amount of goods and services produced in a year in a country.

¹²⁴ These descriptions are based on the classic definitions by Esping-Andersen (*The Three Worlds of Welfare Capitalism*, 1990) and the following websites: <http://www.pitt.edu/~heinisch/concept.html>, <http://www2.rgu.ac.uk/publicpolicy/introduction/socpolf.htm>

Grant is a form of direct budgetary support that is awarded on a competition basis for developing and implementing a specific project with listed activities, deadlines for execution and an itemized budget. Grants are used to reach certain government goals.

Guaranteed social services: see *Statutory social services*

Human rights based approach (HRBA) is a principle applied in international development based on human rights standards enshrined in the international human rights laws, e.g. Universal Declaration of Human Rights.

In-kind support is a type of cost-sharing to the action that does not possess monetary value, but contributes to reaching the goals of the action. Examples of in-kind support might be volunteer work, providing office space or equipment free of charge.

Institutional social services are services that are provided within a residential institution (e.g., elderly home, disability home, orphanage). [c/f *Community social services*]

Integrated social services are services that combine service provision from different fields of welfare (e.g., health, education, employment) and that of social assistance, with the aim to respond to the various needs of the same person in need in a harmonized and holistic way, instead of providing all the services separately. This approach puts the service beneficiary at the center of policy action while also providing a more efficient means of service delivery (e.g. the day care service for elderly can integrate medical checkups, or the after-school care for disabled children can integrate rehabilitation and learning).

Liberal welfare: see *European Welfare Regimes*.

Licensing of services is a procedure in which the organization providing the service is as-

essed against legal requirements that typically encompass organizational and financial capacities as well as service standards and professional competences.

Mixed modality of social services provision refers to the collaboration of the state and non-state providers in financing and operating social services.

Non-institutional social services: see *Community social services*

Non-state service delivery is provision of services by private actors, including CSOs, for-profit companies and individuals.

Non-statutory services are optional services which can be provided by private entities based on perceived needs and resources available. They can be listed and regulated by law, but it is not mandatory for local authorities to ensure their provision. (c/f *Statutory social services*)

Oblast is a territorial administrative division unit in Ukraine.

Per capita or normative payment is a type of budgetary support to the service provider based on the average per capita cost of the service and the number of clients served.

Primary social services: see *Basic social services*

Procurement is acquisition of goods or services at the best possible value or cost.

Purchaser-Provider model is a model used to illustrate the roles of the state and the non-state actors when the state reimburses the cost of the service to the non-state provider. „This model attempts to duplicate the roles of the consumer and the supplier in the market system, but without the market failures caused by inadequate financing and imper-

fect information. The public sector retains the financing role, but public sector finance is provided in a more competitive environment, with more voice for the consumer. The public roles are divided into two different functions: (a) the purchaser, who finances and purchases care, and (b) the provider, who operates the service delivery units. The job of the purchaser is: (a) to act as gatekeeper or rationer of public funds, determining eligibility, and (b) in the case of more specialized services, to act as the agent for the principal (the vulnerable individual). Fundamentally, the role of the purchaser is (...) to ensure that funds are used to get the best outcome for the client. While the provider could be a public agency, in OECD countries, the provider is more likely to be a private or NGO provider contracted by the public authority, an approach adopted to bring increased client responsiveness and efficiency. In transition countries, public providers are more likely in the initial stages as the private sector is underdeveloped." As the private and non-profit sector grows, the purchaser-provider model gains more significance. (From: *Redirecting Resources to Community Based Services*:

A Concept Paper, Louise Fox and Ragnar Gøtestam, Social Protection Unit, The World Bank, 2003)

Public Private Partnership (PPP) is "an agreement between the government and one or more private partners (which may include the operators and the financiers) according to which the private partners deliver the service in such a manner that the service delivery objectives of the government are aligned with the profit objectives of the private partners and where the effectiveness of the alignment depends on a sufficient transfer of risk to the private partners," (OECD, *Dedicated Public-Private Partnership Units - A Survey of Institutional and Governance Structures*. P18, 2010)

Public Sector Comparator is a method of comparing the costs and benefits of (value provided by) a service delivered by the govern-

ment itself to the value provided by a public private partnership (or other social contracting arrangement).

Rayon is a territorial administrative subdivision of Oblast in Ukraine.

Social contracting represents cooperation between the state and private providers in order to deliver social services to the population. In this cooperation, the state designs, finances and supervises the provision of social services which are carried out by non-state actors, including civil society organizations, businesses and individuals.

Social democratic welfare: see *European Welfare Regimes*.

Social enterprise is an organization with a social mission that applies market-based approach in its activities.

Social services are defined as services with the aim to improve the quality of life of people in disadvantaged situations that help vulnerable groups to have equal opportunities and access to public life. This encompasses a wide range of services, including e.g., personal assistance services, adult day-care and half-day centres, temporary housing services, nursing and long term care, counselling, transport services, extra-curricular and extra-institutional education, humanitarian services for impoverished citizens, psycho-social support, assisted living services, informing and awareness raising in the community and many others.

While the term 'social services' includes a broad range of services, its specific content can be understood in different ways depending on the legislation of a given country. Sometimes this term is equated with the broader realm of "public services" or "welfare services", such as healthcare, culture, education etc. In other cases, social services and their contracting refers only to the area of social assistance.

Social order or socialnyi zakaz (Russian) is a form of state support spread throughout the CIS region for various kinds of CSO activities, including social services, but also others, for example, environmental protection, cultural activities or institutional costs of the CSOs.

Specialized social services are services defined in some laws as aiming at the provision of individual care for a person in need requiring specialist intervention (e.g., rehabilitation of a physical disability, dietary supervision, nursing etc.). [*c/f Basic social services*]

Statutory social services (also called compulsory or guaranteed services) are those services which are aimed at providing support to individuals and families. They are implemented according to the specific administrative procedures. The provision of such services is guaranteed by law. They are usually listed and defined in one or more laws of the country (e.g., law on social assistance, law on municipalities, law on health or education etc.).

Subsidy is a form of direct budgetary support, which is often provided as institutional support to a specific organization that works on social issues.

USAID NGO Sustainability Index is an instrument for measuring strength and viability of CSOs in a given country, as prepared by the United States Agency for International Development (USAID) on an annual basis. The Index reviews several dimensions of the CSO sector: legal environment, organizational capacity, financial viability, advocacy, public image, service provision, and CSO infrastructure. More information can be found here: http://www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/

Voucher is a mechanism that allows beneficiaries or clients to choose their service providers. In this system potential beneficiaries receive certificates of monetary value that entitle them to use certain services of licensed providers free of charge.

Vulnerable or disadvantaged groups are groups of people with no or little access to resources to satisfy their social needs, e.g. persons with disabilities, the poorest eligible to cash assistance, dysfunctional and/or abusive families where special treatment for parents/and children call for therapeutic support, hard to reach groups, including minorities.

Annex 1 – Checklist for Introducing a Social Contracting Mechanism at the Local Level

This “Checklist” presents a brief overview of the steps a municipality will have to think through in order to introduce a social contracting mechanism at the local level. These steps should be taken irrespective of the larger picture in the national context. They are based on the actual procedures in a number of municipalities from the CEE/ CIS region (including the three case studies described in this Handbook, as well as from the experiences of several local governments from Hungary, Poland, Bulgaria, and the UK).

The Checklist is divided into four main sections that reflect the main stages in the process – Planning, Preparation, Implementation, and Monitoring and Evaluation. For each stage, there are specific questions that need to be answered and specific steps to be taken. The guidelines within each step reflect good practices, with the aim of demonstrating the entire process and the major issues to be considered for each step of the way. As mentioned before (**Section III.1**), new skills will be required by the local government officials (for example, on how to make a unit cost analysis) when designing a system to involve CSOs in the provision of social services, and in general, to make social contracting work for beneficiaries at the community level.

1. Planning

1.1. Defining the needs for social services

A proper needs assessment is the foundation for developing effective community services, as it provides a clear picture of the

needs of the various vulnerable groups in the local population. CSOs are best placed to ensure a participatory approach to the assessment and ensure that the needs of the vulnerable people and communities are taken into account. Therefore, the local government should include CSOs in the process of developing the “map of needs” at the community level. The information about local needs should be regularly updated based on surveys with different groups, discussion with representatives of the vulnerable groups, experts and CSOs.

1.2. Assessing the local “market” for social services

In addition to a detailed assessment of needs, it is useful to conduct a mapping of the existing and the potential service providers, as well as the potential resources in addition to the resources which should be provided by the local government. This should include information that is of key importance for local strategic planning, such as the number of existing social service providers (including the neighboring municipalities), types of services they provide, how many people they serve, what are their sources of funding, etc. This mapping should include also possible special government programs that fund certain services at the local level.

1.3. Agreeing on a vision/strategy

After the local authority has outlined the needs, it has to decide what it wants to achieve and decide on the priorities. Based on

the information collected, municipalities can prepare a strategy or an action plan outlining the priority needs to be tackled and services that should be put in place to address these needs. This is often called the “local social assistance strategy” or “local social policy plan”. It can be developed either as part of the overall development plan for the municipality or as a separate strategic document. If a separate social protection strategy document is drafted, it is of utmost importance to ensure that this document refers to the key local development strategy and other relevant policy documents (for example, the national level social protection strategy, or the national development strategy).

The planning process should be participatory in order to gather a wide range of important information and views, and to ensure a local ownership of the process and its result. Therefore, the strategy should be developed with the participation of all the interested groups – beneficiaries and potential beneficiaries, the existing and potential service providers, social protection experts, and other relevant experts, as well as expert groups and community based organizations.

1.4. Determining the scope of local services

Based on the strategy, the municipality may plan the specific social services that will fit best with the overall strategy. This includes planning the needed types of services, the number of beneficiaries that should be covered, the duration of the services, and which of the services are to be provided by public service providers or contracted out to non-state providers. In addition, the municipality may develop quality standards for the service. Sometimes, quality standards are developed at the national level, but in most cases these are minimum standards and municipalities can develop their own standards that include

additional requirements. However, it is important for municipalities to consider if they can afford these higher standards of services with the amount of funding that the municipality plans to provide for the specific services. Municipalities should carefully consider all policy implications before making a decision on prescribing any additional requirements for the quality of services.

Municipalities often set up consultation councils where the representatives of different groups regularly meet and discuss the local social policy. The public council could consist of a representative of the social department of the municipality, a representative of the financial department, service providers and representatives of the vulnerable groups. Sometimes, it is good to also have a representative of the local council (the local legislative body).

1.5. Performing the analysis of costs

When determining the type of services to be offered at the community level, the municipality should also make a cost analysis – i.e. how much it will cost to provide the services planned to all the people that need them. This is based on the so-called unit-cost: how much is the cost per person per service unit? The unit price should include a detailed and comprehensive list of costs – salaries of social workers, materials, administrative expenses, services, transportation of beneficiaries and maintenance of a building (in case the service is of a residential type). Based on these calculations, it should be clear how much money is needed for the services planned. In general, the process of creating a detailed list of costs for services might represent a major challenge for a local government’s officials because of the fragmented information available. Therefore, there is a risk that some costs remain “hidden” or underestimated.

Once the municipality makes the calculation for the cost of the service per capita, it can then calculate the cost for providing the service internally and contracting it out (so-called Public Sector Comparator). This second calculation is closely linked to the capacity of the municipality to provide the service, the quality it can achieve by providing the service itself, and the experience it has with this kind of service provision.

1.6. Identifying the funding sources

In most countries, some of the services are covered by the state, while the rest are to be covered by the local municipality. Firstly, prioritization should be made regarding the most essential services that should be provided and the priority groups of people that should be served. Secondly, based on the source of funding, services are separated in two categories (for which different rules and procedures might apply). The services that are not covered by another source should be funded through the local municipality budget. In order to make this process long-term and sustainable, it is prudent to have a separate budget item for the specific services, so that it is visible how much is spent and how much is planned to be spent on each service.¹²⁵

In addition, it is possible, in case legislation allows it, to split the service cost between the municipality and the beneficiary of the service. In this way, more people might get access to the service. It will then be important to determine who should pay the fee for the service and who should be eligible for the service free of charge (for example, people living in extreme poverty). In case fees for services are introduced, it is important to elaborate details of the system for collecting the fees.

In some cases, the municipality may set co-funding from other sources as a requirement (this is the case in Odessa). Regardless of the form of financing, the allocations should be realistic, affordable and measurable.

1.7. Making choices based on the needs and costs (trade-offs)

Once the municipality has undertaken a comprehensive assessment of the needs of beneficiaries, strategic choices can be made on prioritisation of services, given the financial resources available and taking into account the opportunities for additional fundraising. This process is closely related to the process of identifying the funding sources described above. Trade-offs are inevitable given finite resources, and an appropriately conducted assessment provides a basis for informed choices on the trade-offs to be made.

1.8. Creating a funding plan

Based on the information from the local social strategy and the identified funding sources, the municipality can go about developing an annual funding plan for the services. This plan will usually include the details of how the social contracting mechanism will be run:

- What services are planned to be contracted out – listing the different services, their target groups and duration;
- What kind of lots will be announced – describing whether one service is to be provided by one provider or is to be split into several components that are then to be contracted separately. Sometimes, separate services might be united in one lot if they are interrelated to

¹²⁵ If the municipality decides to fund the CSOs through a grant scheme, a separate fund may also be established, which can be managed somewhat independently from the municipal administration.

each other and there is a need for close coordination between them (for example, the same beneficiaries need several related services);

- What will be the amount of financial allocation towards each lot – this is based on the calculations on the cost of the service per person/ service;
- Will there be a competition or a negotiation for each of the lots – this depends too on the mapping of the resources described under the needs assessment section (for example, there is a service provider that already supports this target group that has made the necessary investments in a service so the municipality does not have to make the same investments again or there is only one potential provider in the region and the beneficiaries are satisfied with the services provided). In any case, competition is a good and healthy way to ensure good quality of services. In addition, the municipality should always take into consideration the fact that in case the beneficiaries are not satisfied with the service, there should be a possibility for alternative service provision;
- How many competitions are planned during the year, and what are the deadlines for applications;
- Who makes decisions on the various lots – whether it is the Mayor only or whether there would be commissions comprising different people, etc.

2. Preparation

2.1. Initiating the procedure

At the local level, it is usually the municipal administration that initiates the process. Sometimes, depending on the legislation, there might be a need for the local legislative body to either vote on the need to start providing

a certain service or on the decision to contract it out. Regardless of the specificities of the national legislation, it is important that the procedure does not depend on the will of just one person (for example, the Mayor). There should be provisions that oblige him/ her to organize a competition under certain conditions. Alternatively, there could be a possibility that a procedure is opened even if the Mayor does not approve it, and if the local council supports it. In addition, the provision of a certain service could be proposed by CSOs or through citizens' initiatives as well.

For example, in Poland, CSOs can propose the opening specific services. Within two months, the municipality has to decide whether it wants to support the service and what would be the best way to do it (a grant, a contract or a partnership agreement). In this case, the municipality is not obliged to organize a tender.

2.2. Assigning management capacity

Designing, implementing and managing the contracting process is no small task for any municipality. Therefore, it is good practice to assign a specific person that will be responsible for coordinating the process of outsourcing service providers. In larger municipalities, a whole unit may be needed to facilitate the process and ensure communication among the different stakeholders. Sometimes this task is assigned to a Council Committee, rather than to an administrative unit (for example, the Committee on Social Affairs). In such cases (as is the practice in Hungary), the secretariat of the Committee will be responsible for managing the day-to-day process of preparation, implementation and monitoring. The key is to ensure that there is adequate human capacity assigned to the process, otherwise transparency will be compromised and the administration or Council members will need to work in their free time, which will not aid to an effective process.

2.3. Decision on eligibility of service providers

In general, the procedure can be open to any eligible provider – an individual, a business company, a CSO or a state provider. Some countries prefer to limit the potential participants in contracting procedures for various reasons. Often, CSOs are the preferred candidates because of their experience with the target groups, and because it is within their mission to support the target beneficiaries. In addition, local authorities consider it important that CSOs operate in their community and this mechanism may also be used as a tool to support the CSO sector.

It is important that once potential providers have been determined, there is equal treatment for all. It is especially essential to ensure equal treatment of state and non-state providers. In Poland, there is a requirement that if a service is to be delivered, a tender must be implemented. Both the municipal departments that can provide the service, as well as the CSOs, participate in the tender – and the best offer wins. In Bulgaria, by contrast, it is up to the Mayor to decide whether to open a competition. So if the municipality is willing to provide a service, it is able to do so without competing with other potential providers. From the beneficiary point of view, competition increases the quality of service and provides more choice; therefore, it is considered as good practice.

Sometimes, national legislations require that the candidates should be licensed or registered as social service providers. This is a form of preliminary control of the capacity of providers to ensure that only those providers will be eligible for receiving public funds that have sufficient capacity to both undertake the service and manage funds accountably. When the control is only formal (certain information needs to be provided), this is usually considered a form of registration. When there is

a need for in-depth monitoring to determine whether the provider has the necessary capacity, this is considered licensing. Licensing is usually required in the case of more specialized services when the beneficiaries may need a higher level of protection against incompetent or abusive practices (for example, children, mental health patients etc.). While local authorities are not usually in a position to issue licenses, they may require registration of the service providers locally. Registration and licensing requirements should be applied to providers from all sectors without discrimination. (See also **Section II.6** of the Handbook)

2.4. Decision on the selection procedure

There are two main ways through which the service providers could be selected at the local level: through open competition or through direct negotiations (*see Glossary*). There may also be other ways too: for example, the provider could be chosen at the national level and provide services locally, or in case there is a voucher system, eligible beneficiaries can receive vouchers and choose the providers according to their preferences. Sometimes, municipalities decide to deliver services in partnership with CSOs (which is also a form of negotiation, although more often the initiative comes from the CSOs).

Negotiations are usually a better way to select the provider when there are not enough potential providers or the municipality cannot secure funding for the full expenses for the service. Even in this case, however, there should be clear criteria as to when the municipality can choose this form of contracting and how a potential provider can initiate negotiations.

Competition is the best way to select the provider when there are several candidates for the service. Whether selection is made through competition or negotiations, the cri-

teria for the service provider, the expected parameters of the service, and the monitoring and reporting criteria (see below under “*Launching a competition*”) need to be clear, as well as transparent (for example, published in an announcement, or in the case of negotiations at least documented and made available to the public).

3. Implementation

3.1. *Launching a public competition*

The competition starts with an official decision to initiate the procedure (usually a decision of the Mayor). An announcement containing the most important requirements is published.

The announcement will include the subject of the competition, the expected deliverables from the contestants, the amount allocated for the lot, deadline for accepting proposals, as well as where interested parties can find additional information about the competition (including detailed guidelines for applicants). The announcement should be publicized through all possible channels and should give sufficient time to candidates for preparation of their proposals. For example, in Bulgaria, the announcement should be published in at least one national and one local newspaper 45 days before the final deadline for submission of proposals. Using national (and not only local media) aims to attract potential providers from outside the local community.

Prior to the announcement, the municipality should also prepare the guidelines which detail all the requirements for the candidates and the service to be delivered. They should contain:

- Requirements for experience of the candidates (for example, previous work with the target group, number of similar projects carried out, etc.);
- Requirements as to the personnel that should be employed in providing the service (number and exact qualifications);
- Details on the exact content of the service – how many beneficiaries should be covered, what types of assistance they should receive, etc.;
- Expected timeline and location of the service provision – one or more years;
- The maximum budget available, the mechanism and timeline for payments under the contract and any risk-sharing provisions;
- How are the potential beneficiaries determined and who has the responsibility to identify them;
- The documents that need to be submitted together with the proposal.¹²⁶ It is good practice to require a limited number of documents at the time of application and ask for additional documents only prior to signing the contract with the winning candidate.

The guidelines should also contain a description of how the project will be evaluated (will it be just a document review, will there be interviews with shortlisted candidates, what are the most important criteria when choosing the winner, etc.). It should also contain the timeline of the process – when is the exact deadline (including at what hour and whether the documents have to arrive or be sent by that time), what is the expected time for announcement of the results and when is the expected start of the service delivery.

¹²⁶ These usually include certification of current legal standing, registration of the organisation, recommendations etc

3.2. Evaluation of the proposals

The evaluation committee is appointed by the Mayor. The committee should consist of specialists in the area in which the service is to be provided. It is good practice to include in the evaluation committee a representative of the authority providing the funds (the state or the municipality finance office), as well as independent representatives (for example, the public council dealing with social issues, CSO representatives with proviso that their organizations are not participating in the competition etc.). The committee should adopt its working procedures and voting mechanisms at its first meeting. An additional way to enhance transparency of the evaluation process is by inviting independent observers to evaluation committee meetings. Their role is to observe the process related to the conduct, fairness and equity of the evaluation process; however, they are not allowed to participate in the evaluation of proposals.

3.3. Selection criteria

It is key to agree on the central principles regarding the selection of the applicants (efficiency, effectiveness, best value etc.); this will depend on whether the competition is a grant or a procurement-type tender. (See **Section II.5** for details on the key selection principle.) It is important to reiterate that in the social contracting competition, price should not be the leading factor (as long as the offered price is within the suggested budget in the announcement). It might have a weight when evaluating, but it should be secondary to a number of other considerations.

The evaluation criteria could include, for example:

- Qualifications of the proposed personnel;
 - Financial stability and experience in managing funds;
 - Observance of gender related aspects;
 - Appropriate internal monitoring and evaluation procedures;
 - Other requirements depending on the nature of the service.
- There should be a unified evaluation matrix, which is to be used by all the members of the evaluation committee so that they use common criteria when evaluating the proposals. Typically, evaluation is carried out by setting certain criteria, each of them awarded by a certain maximum points depending on its importance.
- Firstly, applications are screened to check if they fulfill formal criteria (such as the accuracy and completeness of project proposals). The applications who fail to meet the formal criteria are not eligible to enter the competition.
- The applications that have met the formal eligibility criteria are further ranked using the evaluation matrix and a set of standard criteria. Finally, the winning applicant of the competition is determined and awarded with a contract.
- There are two main types of contracts: fixed value contracts and price contracts. In the former, the bidder offering the highest quality proposal for the given budgeted amount is awarded the contract. The proposal receiving the highest number of points on the various evaluation criteria will be the winning one.
- In the other type of contract, i.e. price contracts, price is considered as a factor in the evaluation as well. In this case, technical evaluation may be conducted first and the price offers can be checked only for the most highly evaluated technical proposals. Both the technical and price offers will receive a number of points in
- Experience of the candidate in the area of the service;
 - Proposed plan for service delivery;

each proposal, relative to each other. In determining the best value for money, the technical rating is multiplied by the price value rating, thereby the highest amount will represent the best value proposition. Importantly, therefore, even in price contracts, price should not be the leading factor of awarding the contract.

In case there is only one candidate in the competition, the municipality may decide to repeat the competition or to negotiate the terms with that candidate.

3.4. Dealing with conflicts of interest

Strict rules for conflicts of interest should be set. Providers should not be related to the contracting authority, including through a legal entity in which someone from the municipality has shares or control. If there is a prohibition for entities other than CSOs to take part in the procedure, it is important to ensure that the candidate CSOs were not set up by businesses or a state entity exactly for the purpose of getting hold of the funding.

If CSOs have been involved in the design of the social policy planning process and/ or in the design of the service tender, the municipality will have to make a decision about whether this represents a conflict of interest. In most cases, participation in the more general strategy development would not be a reason to exclude a potential provider from the competition. However, if the CSO was providing concrete advice relating to the specific tender, then it may not apply for the tender implementation. (The reason why this may create problems is that often there are only one or two CSOs providing services in a specialized area of care. In these cases, direct negotiations may be a better choice. In case, a municipality decides to select a provider through direct negotiations, it is crucial to clearly justify this choice as this might provoke speculations on corruption, nepotism, or favoritism, etc.)

3.5. Type and key terms of the contract

A model contract should be published as an annex, together with the guidelines for application, so that potential candidates know what is expected from them. Nevertheless, there should be a possibility to negotiate some of the contract terms after the winning candidate is selected. The change should not, however, include a change in the substantive provisions (such as the price or decrease in the number of people served) because that would be a breach of the competition.

It is very important to note that once a service provider is selected, that entity and its personnel are not municipality staff so the Mayor and/ or municipality officials cannot interfere in the service delivery process, unless that is included in the contract. The employer of the personnel providing the social services is the organization that provides the service – and not the municipality.

The contract should include:

- Clear service specification/ definition - type and quantity of the service to be provided (there might be a possibility if resources allow it, to increase the price if the number of beneficiaries to be supported is increased);
- The price – if the period is for more than one year (when the municipal budget for the next year is not yet clear), the contract can state the price for the first year and the way in which the budget for the next years will be calculated (for example, based on the same cost standard per person as for year one, multiplied by the inflation, etc.);
- Period of the contract;
- Mechanisms for monitoring the services, including types of reporting, possibility for on-site visits by the municipality, etc.

- Rights and obligations of the parties;
- Guarantees for correct expenditure of the municipal funds and sanctions or non-delivery of services;
- Rules on how the contract can be terminated by each party;
- Sanctions in case of non-compliance with the legal obligations (including late payments by the municipality);
- Other provisions.

There is one very important fact about social contracting which the contract needs to consider. Social services have to be provided on a continuous basis – they cannot be stopped in the event of a disagreement between the municipality and the provider. This should be reflected in the contract – both as an obligation of the contractor not to stop the service provision and for the municipality – not to stop the payments during disputes.

3.6. Possibility for appeal

Municipalities should aim to create an independent appeal mechanism where unsuccessful candidates can complain about the results of the competition. This is important in order to assure that the evaluation is fair, and should also help participants to understand the weaknesses in their application to be better equipped to participate in future competitions.

This mechanism could be an independent commission, unrelated to the evaluators. It should make decisions fairly quickly, so that it does not block the process, and the contract with the winner should not be signed before the final decision of this commission in case of appeal.

4. Monitoring and evaluation

Several countries in the Central and Eastern Europe region have developed standards for certain social services (for example, Poland, and the Czech Republic). Standards are aimed to provide the basis for assessing the quality of services. They are universal, and therefore should be applicable to all types of services and all service providers – both state and non-state providers. These standards should be followed either by all service providers or by those that receive public funding. One type of monitoring would be to ensure that the services delivered follow these standards. It may be carried by the state or by the municipality itself and this is usually defined in the national legislation of the respective country.

On the other hand, the municipality through the contract can have additional requirements as to what can be monitored besides the requirements set by the law (if any). This separate type of monitoring is carried out by the municipality and could be in the form of access to the premises where services are provided, unannounced site-visits, documents proving that the beneficiaries have received the services to which they are entitled, requests for information from the service provider, regular reports, etc. These, if applied, should all be detailed in the contract, and the pros and cons for such additional requirements should be carefully considered, since the risk with any additional requirements is to place an additional burden, while not ensuring better quality of services. If the provider has to provide reports, these should not be too frequent, or too detailed. The reports should focus on important information on beneficiaries and point to any relevant changes in the context or any other issues that might affect the quality and/ or continuity of service provision.

The municipality usually monitors the following:

- Whether money is spent in accordance with the contract;
- Whether the services are being provided to the specified number of beneficiaries;
- Whether the beneficiaries are receiving the full package of services to which they are entitled;
- Whether the quality of the services is at the level expected;
- Whether the provider ensures that the information on the services is available to the potential beneficiaries who are eligible to receive the service, and so on.

The municipality can control the quality, accuracy and effectiveness of the provided services through beneficiary assessments - interviews or surveys, including the beneficiaries or their relatives. It is good practice to involve the beneficiaries directly in the monitoring and evaluation of the service.

The local government can establish a phone line for citizens or an interactive website. It can also use citizen report cards or any other social accountability mechanism through which beneficiaries can directly contact the municipality with complaints and suggestions related to the service provision. Beneficiaries' views can also be gathered through focus groups, as well as in customer councils.

The monitoring could be carried out either by municipal officers or by independent experts (including expert CSOs), contracted by the municipality for that purpose.

Finally, monitoring should not serve only as a control mechanism. It serves to gather lessons learned and best practices in order to create new knowledge that can be shared among service providers, municipalities and all the actors concerned with social service provision at the community level. The knowledge management aspect is also an important part of monitoring and evaluation of service provision. It allows for cross-fertilisation and prompts innovation, as well as scaling up of services as appropriate.

Annex 2: Armenia - List of Municipalities where social partnership regulations were adopted

	Town	Marz	Date of adoption of SP Regulation	Amount in AMD provided to local NGOs
1	Vanadzor	Lori	2006	600.000
2	Ashtarak	Aragatsotn	2007	1.200.000
3	Goris	Syunik	2007	To be budgeted
4	Kapan	Syunik	2007	To be budgeted
5	Kajaran	Syunik	2008	300.000
6	Meghri	Syunik	2008	100.000
7	Agarak	Syunik	2008	100.000
8	Gavar	Gegharkunik	2007	500.000
9	Vardenis	Gegharkunik	2007	100.000
10	Noyemberyan	Tavush	2008	200.000
11	Masis	Ararat	2008	To be budgeted
12	Ararat	Ararat	2008	To be budgeted
	Berd	Tavush	To be adopted	200.000
	Ijevan	Tavush	To be adopted	200.000
	Gyumri	Shirak	To be adopted	500.000
	Artik	Shirak	To be adopted	600.000

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UNDP Bratislava Regional Centre

Grosslingova 35
811 09 Bratislava
Slovak Republic

Tel.:(421-2)59337-111
Fax.:(421-2)59337-450
<http://europeandcis.undp.org>