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1 THE CURRENT STATE OF CIVIL SOCIETY¹

Kenya is touted as having a vibrant and dynamic Civil Society that has been key in the democratic and developmental gains made by Kenya. Civil Society in Kenya exemplifies resilience and innovation in the face of this fairly young democracy. The political dispensation in 2002 opened the door for improvement in Government/ CSO relations as meaningful dialogue and increased engagement between the two sectors began to take place. However, the relationship between CSOs and government from 2013 became increasingly strained as the incoming regime came down hard on the sector, partly in retaliation for the role of some CSOs in pushing for acountability for the 2008 Post Election Violence, corruption and other accountability issues. This manifested in several ways such as attempts to amend the PBO Act 2013 and introduce retrogressive provisions², and profiling of CSOs and leaders (Evil Society) with tensions sometimes raising very high, especially during politically volatile periods like Elections.

However, since changes were made at the NGO board in 2018 starting with the appointment of a new Chair, and a new CEO, tensions between NGOs and the regulator have eased and Civil Society is more hopeful about a positive relationship and the operationalisation of the PBO Act 2013.

The first EU CSO Roadmap for Kenya of 2015, was the culmination of a process of consultations with national CSOs, grassroots CSOs and CSO experts of the EU Member States represented in Kenya. Building on the experience of the first roadmap, this second Roadmap is articulated around two broad priorities:

- 1, Support an enabling legal and institutional environment for CSOs at national and county level
- 2. Increased participation, engagement and oversight by civil society in governance at the national and county level, in line with the commitments made in the 2010 Constitution

This Roadmap is intended as a strategic instrument, which will complement the EU Joint Strategy 2018-2022 and provide guidance to the different areas of EU engagement with Civil Society – political and policy dialogue, development cooperation and trade – rather than an output-specific plan of action.

1.1 The legal framework

The Constitution of Kenya 2010 provides a strong foundation for the existence and operation of CSOs. From article 1 on sovereignty of the Kenyan people, article 10 on national values and principles of governance, particularly public participation, to a comprehensive Bill of Rights recognising fundamental rights including the freedom of expression, the right to access of information, freedom of association and freedom of assembly, demonstration, picketing and petition. Moreover, public participation is enshrined in the Constitution as a key principle of public decision-making. Generally, the legal environment in which CSOs operate is supportive of civil society. However, the legal framework is characterized by multiple laws, which are implemented by different Government ministries, agencies and departments

¹ This part draws on desk review, two surveys, interviews and focus group meetings conducted in May 2019.

² Some of the amendments included a capping of funding that NGOs receive from outside of Kenya to only 15% of their budget, removing government obligation to work with PBOs, introduce mandatory registration and remove benefits like Income generation and tax incentives

1.2 Civil society sustainability

In practice, most of the CSO funding in Kenya comes from non-Kenyan sources, be they aid agencies, international organisations, international NGOs or foreign missions. CSOs in Kenya have started to think about sustainability but those that have been successful in implementing strategies to diversify their resource mobilisation are very few. CSOs engagement with the private sector is fairly new and there is need to overcome the rift occasioned by assumed lack of similar values or mutual interest in sustainable development and understanding of how each sector engages in development.

1.3. Spaces for Dialogue

Despite substantial improvement over the past years, public authorities in Kenya have not yet been consistent in including the civil society in public decision-making. The Roadmap survey³ and consultations indicate that the devolution process constitutes a unique window of opportunity to deepen participatory approaches, with several CSOs reporting having been able to influence or inform policy dialogue especially at county level. However relevant challenges remain. Some of the key challenges which hamper their effective participation in domestic policies are; lack of an enabling policy environment at county level, political interference, limited access to information, especially budgets and low capacity of CSOs.

Some thematic CSO networks have been successful in the sector working groups such as on Health and Agriculture and individual CSOs also record success on engaging on specific issues but this is still the exception rather than the norm. There is a need to harmonise the multiple sector working groups and have effective and structured CSO participation, generally and along thematic areas at National and County levels.

1.4 Networking and CS capacities

Currently there are several CSO networks at National and County level that have either come together for broader causes such as the Civil Society Reference Group (enabling environment for Civil Society) or for specific interests such as the SDGs network, HENNET (Health), KAF (farmers) and others. The Private Sector, including employer's organisations, trade unions, and other professional organisations, as well as media and academia, still are unexploited partners for CSOs. Specific to the EU Roadmap and joint strategy it was recommended that EUD "Create spaces for CSOs to be involved in the follow up of the Joint Strategy"

³ A survey was launched in April 2019 addressed at 120 CSOs. It was answered by a total of 43 organisations. The preliminary results were shared during the 3 workshops organised in May 2019 in Mombasa, Kisumu and Nairobi. A total of 80 CSOs attended these workshops.



1.5 Conclusions

All in all, civil society in Kenya appears to be at a cross road. After the divisive elections of 2017, the infamous "handshake" between H.E Uhuru Kenyatta and Rt. Hon Raila Odinga could provide a reprieve where dialogue is possible, and organising is easier. The experience so far, however, has been that it is significantly less inclusive than the process leading to the constitutional reform in 2010. The absence of a strong opposition also means that CSOs must step up their watchdog role as Kenya manoeuvres this phase of its democracy. The détente between CSOs and the NGO board could prove to be a game changer in relations and impact.

From the RM Survey and consultations, certain priorities emerge for CSOs. These include but are not limited to:

- Advocacy for PBO Act implementation and participation in implementation thereafter
- Promoting sustainable resourcing for CSOs
- · Create and strengthening spaces for dialogue
- · Strengthening CSO capacities in resource mobilisation, internal governance networking and research;
- Strengthening networks of civil society, in particular between different types of CSOs
- Inclusion Gender, Youth, PWDs, Marginalised and Minority communities
- Protecting and consolidating the gains made in democracy especially through the 2010

2 LESSONS LEARNT FROM EU ENGAGEMENT SO FAR

More than half of the EU partners present in Kenya actively support CSOs, with a few Member States supporting intensively CSOs and their civic space. EU partners work with CSOs across multiple sectors - from governance (democratic and economic) and human rights, to water and sanitation, social services job creation, food security and resilience - and support different Civil Society roles, with a special emphasis on the provision of services, watchdog roles, awareness raising and research and alternative data collection.

The work with CSOs is generally threefold:

- 1. Support to the enabling environment and to CS capacities
- 2. Use of CSOs as service providers in the different cooperation sectors
- 3. Support to CSOs to strengthen the voice of citizens, as right holders

In terms of lessons learnt it appears that:

- It is extremely important to continue strengthening the sharing of information and coordination, at technical but also more senior policy level, regarding the support to CSOs in Kenya
- · There is ample room for improvement in the way the EUD engages with CSOs in Kenya,
- Dialogue between EU partners (EUD and EU Member States) and CSOs needs to become more predictable, more structured and more open to suggestions from the CSOs themselves on items for discussion. It also needs to be better aligned with the Joint Strategy Implementation.

The priorities that were identified in the first RM (2014-2017), which revolve around the enabling environment and CS involvement in domestic policies, remain relevant today. Yet they need to be adapted to the current context, and in particular to the most recent developments. There currently is a window of opportunity to actively support the enabling environment for CSOs in Kenya.



CSO & LA CfP / MS funding

• Support CS innovation in partnering with the private sector and/or in developing new sources of funding

EU STRATEGY AND ACTION PLAN TO ENGAGE WITH CSOs ന

MEANS (programmes / instruments, etc.)	High Political dialogue HoM meetings Civil Society Donors EU-Kenya Cooperation and Partnership Facility HR Defenders Bilateral funding	CSO & LA CfP MS funding	EU-Kenya Cooperation and Partnership Facility
ACTIONS (analysis, policy dialogue, operational support)	 High Level Policy Dialogue, diplomacy, political dialogue Ensure a more regular dialogue with key actors Initiate a tripartite dialogue with Treasury and CSOs Monitor the impact of the run-up to the 2022 elections on civic space Provide strategic support and timely responses in the case of worsening conditions for CS 	 Support capacity development efforts of CSOs in adopting and effectively implementing a set of standards to promote the accountability of CSO's and the sector in general Enhance the capacity of the NGO Coordination Board to execute their new strategic plan and effectively shift towards a "service role" 	 Support Kenyan Civil Society in undertaking research Based on the research above, promote dialogue between Kenyan CSOs, the private sector and philanthropies, and the public sector
PRIORITIES FOR EU ENGAGEMENT	1.1 Advocate for the effective implementation of the PBO-act and the revision of any other relevant regulations (e.g. PFM Act) to preserve and amplify civic space, in line with the values and commitments of the 2010 Constitution	1.2. Strengthen the accountability and transparency mechanisms of CSOs and the Government to ensure compliance with the PBO	1.3. Promote Civil Society sustainability to reduce the dependency on extremal donor funding
KEY CHALLENGES AND OPPORTUNITITIES	The legal environment in which CSOs operate is generally supportive of civil society but overlapping laws present difficulties. Perceptions are evolving. Yet mistrust and lack of cooperation persist between authorities and CSOs. Donor funding is decreasing and local philanthropy (both individual and corporate) is still at a very early stage of development.		
OBJECTIVES	Support an enabling legal and institutional environment for CSOs at national and county level.		

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Increased participa-	tion, engagement and	oversight by civil society	in governance at the	national and county level,

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- society involvement in domestic policies has improved, especially at county level. Despite the persistence of barriers, civil
 - Limited access to information (budgets); intimidation; Limited will to engage on social accountability efforts by CSOs; Key challenges encountered include: Political interference and even
- through the use of both of CSOs at county level 2.1. Promote the voice invited and claimed Spaces
- implementation of guidelines for citizen participation coalitions platforms and networks at county level to opportunities for participation to support effective Deepen the analysis and address barriers and Strengthen CS issue based and cross sectoral
- Joint Strategy Action Plan (FWC for the
- post 2002 bilateral funds / MS funding

Support CSOs and their capacities in undertaking

evidence-based research and advocacy

put forward unified messages in policy processes

implementation of the JS) CSO & LA Calls / Future

CSOs at national level, 2.2. Engagement of

Living mapping of actors per sector

- Strengthen CS issue based and cross sectoral coalitions, Organisation of sectoral dialogues (EU MS and CSOs) Regular invitation of key CSOs (networks/resource organisations) to attend JP sectoral groups platforms and networks at national level Support CSOs in undertaking evidenceand watchdog work research, advocacy CS evidence-based transparency and anti-corruption especially:
- implementation and follow up of the EU CS engagement in Joint Strategy

Strengthen capacities of counties to effectively engage

based research and advocacy

implementation and of CSOs in SDGs CS engagement monitoring

post 2002 bilateral funds / CSO & LA Calls / Future MS funding

implementation of the JS)

Ioint Strategy Action

Plan (FWC for the

2.3. Enhance the inclusion and policy dialogue at all development processes women and youth in and contribution of governance levels

Support Youth Councils, youth platforms, associations, cooperatives and other youth groups

Operational support

and Support further development of the women movement women's involvement in social accountability efforts

accountability and strengthen their economic empowerment Empower women and youth in policy dialogue, social

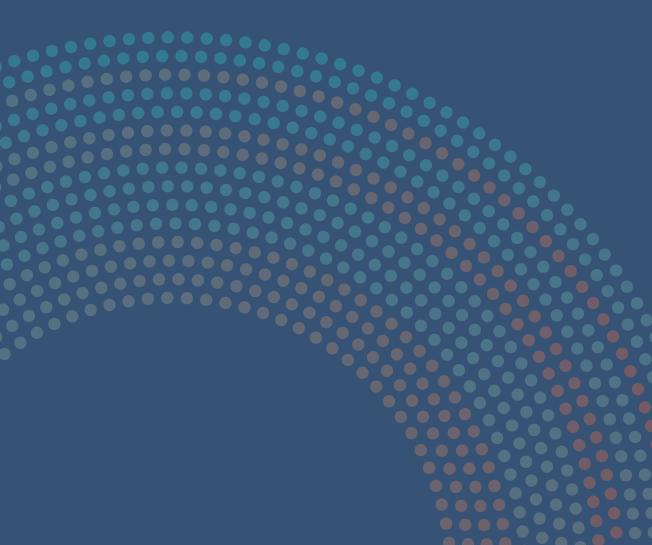


4 FOLLOW UP OF THE PROCESS AND STRATEGY

		Process indicators
Indicator	Target	Baseline information
Involvement of Member States MS present in the country are actively involved in implement monitoring of the RM process	MS present in the country are actively involved in implementation / monitoring of the RM process	A survey was launched addressed at the 19 MS present in the country. It was answered by 10 MS. The preliminary funding's of the consultations were presented in a Development Counsellors meeting organised on the 30th of May.
Consultations held with CSO's regarding the RM	The RM entails consultations with a broad range of local CSOs. These	The RM has been drafted following a highly participatory process, in order to identify areas of common interest between the EU and CSOs.
	consolutions should lead to a more permanent and structured dialogue between CSOs, EU and MS.	A survey was launched addressed at 120 CSOs (NGOs, trade unions, cooperatives, etc). Three workshops were organised in Mombasa, Kisumu and Nairobi. Bilateral meetings were also organised with a number of key networks, authorities and INGOs.
		Consultations (vis-a-vis CSOs and MS) have shown that there is an opportunity to engage deeper a with CSOs, beyond funding.
Complementarity of the RM vis-à-vis related EU and other donors and partners policies	RMs are complementary to related policies and processes including human rights and democracy country	The RM is fully aligned with the New European Consensus on Development. It complements the Joint Strategy 2018-2022 developed for Kenya (in this the RM intends to deepen the inclusiveness of the Joint Strategy) and is also aligned with the Gender Action Plan (2016-2020).
and processes	strategies, the rights-based approach to development, gender action plans, etc.	Consultations with CSOs were organised around the 4 pillars of the Joint Strategy, as well as around common issues of interest

		Outcome indicators		Baseline	Sources of information
	out provides		ıaıyer	information	& Means of verification
 Support an enabling legal and institutional environment for CSOs at national and county level. 	 1.1. Advocate for the effective implementation of the PBO-act and the revision of any other relevant regulations to preserve and amplify civic space 1.2. Strengthen the accountability and transparency mechanisms of CSOs and the Government to ensure compliance with the PBO ACT 1.3. Promote Civil Society sustainability to reduce the dependency on extremal donor funding 1.4. Support the data-generation, communication and visibility efforts of the CS sector to contribute further collaboration between the authorities and CSOs 	Number of high-level dialogues/ meetings involving CSOs on various policies/legislations Number of CSOs registered/deregistered Number of CSOs adhering to selfstandards (VIWANGO or other) Number of campaigns / researches issued by CSOs about Civil Society in Kenya and its contributions	To be defined	Existing legislation and networks Treasury reports NGO board report 2018	NGO Board, CSO Networks, CSO, Regulator's and MS reports Treasury reports GREDC reports Gazette notices
2. Increased participation, engagement and oversight by civil society in governance at the national and county level, in line with the commitments made in the 2010 Constitution.	 2.1. Promote the voice of CSOs at county level through the use of both invited and claimed spaces. 2.2. Engagement of CSOs at national level, especially: CS evidence-based research, advocacy and watchdog work around key policies CS engagement in Sector Working Groups CS engagement in the implementation and follow up of the EU Joint Strategy CS engagement of CSOs in SDGs implementation and yollow up of the EU Joint Strategy 2.3. Enhance inclusion and contribution of women and youth in development processes and policy dialogue at all governance levels 	Number of CSOs participating in governance No. of oversight reports generated by CSO's and submitted to county governments Percentage increase in number of local communities participating in county planning and budget making % increase in number of women and youth participating in county planning and budget making No of PiL cases filed and status	To be defined	To be defined after discussing with URAIA and Youth Agenda	URAIA uses several of the indicators suggested. Links can be established with the programme to share information





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